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The Sustainability of Public Private Partnership in Ireland

Thesis presented by

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for the Degree of

Doctor of Philosophy

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Declaration

This is to certify that the work I am submitting is my own and has not been submitted for another degree, either at University College Cork or elsewhere. All external references and sources are clearly acknowledged and identified within the contents. I have read and understood the regulations of University College Cork concerning plagiarism.

Gail Sheppard

August 2018

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Abstract

The Sustainability of Public Private Partnership in Ireland

Despite a lack of transparency and a failure to report value for money in the public domain, PPP has continued as a public procurement policy in Ireland. Its use commenced during the so-called Celtic Tiger years when other forms of public procurement may have been possible. There has been limited publication of the reasons for the decision to procure through PPP, thereby making public scrutiny and assessment of the sustainability of this policy difficult. Major reforms to the policy were introduced in 2012, and now in 2018 this research reviews these policy reforms to assess the sustainability of this policy.

Adopting a critical realist position and, by attempting to understand the forces at work in the introduction and operation of PPP in Ireland, whether observable of themselves or by their effects, this study evaluates the policy and makes recommendations to improve on the status quo. If the observable performance can be objectively measured against an accepted framework, the forces at work can be made explicit, the performance of PPP can be evaluated and improvements, if any, can be recommended.

Influences on the adoption of PPP in Ireland are examined using Dolowitz and Marsh (1996 and 2000). The performance of PPP is evaluated using a framework based on the Jooste, Levitt and Scott (2009) framework which seeks to examine the extent to which institutional environments have been adapted to enable a sustainable PPP policy and an environment where legitimacy, trust and capacity in the policy exist. A pilot study encompassing interviews and a document analysis was completed in 2013, and informed an extended study was carried out in 2016. Data is analysed using thematic analysis and Nvivo software is used to organise the data for analysis purposes.

The findings of this research generate unique insights into the nature of policy transfer, particularly the impediments to the natural evolution of a policy during a period of uncertainty. Ireland has been purposefully selective in embracing only some of the measures which would increase the legitimacy of the policy.

Ireland's PPP policy has evolved and it now relies on learning from its own experience and less from other countries. The research shows that there are weaknesses in the policy, in particular, the role of the National Development Finance Agency, the transparency of the policy, the role of stakeholders and political commitment to the policy. Further to this, as the policy has evolved in Ireland, there has been a de-politicisation of PPP. A greater politicisation of PPP in Ireland would bring with it an obligation for more transparency, regulation, accountability and post-project reviews. Weak political support for PPP exemplifies a culture of satisficing where PPP in Ireland appears to be a useful procurement method, but only meets the minimum requirements of legitimacy, trust and capacity. The research argues that there needs to be clarity around risk transfer as well as a strong legal and regulatory framework in Ireland to ensure the long-term sustainability of PPP.

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List of Abbreviations

ASTI	Association of Secondary Teachers in Ireland
C&AG	Comptroller and Auditor General
CCJ	Criminal Courts of Justice
CCPPP	Canadian Council for Public-Private Partnerships
CSF	Critical Success Factors
DPER	Department of Public Expenditure and Reform
DRP	Dispute Resolution Procedure
DoECLG	Department of the Environment, Community and Local Government
DoES	Department of Education and Science
ECB	European Central Bank
EIB	European Investment Bank
EPEC	European PPP Expert Centre
EU	European Union
FOI	Freedom of Information
HSE	Health Service Executive
IBEC	Irish Business and Employers' Confederation
ICTU	Irish Congress of Trade Unions
IDG	Interdepartmental Group
IMF	International Monetary Fund
NDFA	National Development Finance Agency
NDP	National Development Plan
NESC	National Economic and Social Council
NHS	National Health Service
NPM	New Public Management
NPV	Net Present Value
NRA	National Roads Authority
NPRF	National Pension Reserve Fund
NTMA	National Treasury Management Agency
OJEU	Official Journal of the European Union
O&M	Operations and Maintenance
OPW	Office of Public Works
PAC	Committee of Public Account
PAR	Procurement Assessment Report
PFI	Private Finance Initiative
PPIAF	Public-Private Infrastructure Advisory Facility
PPP	Public Private Partnership
PSB	Public Sector Benchmark
PSC	Public Sector Comparator
RPA	Railway Procurement Agency
SME	Small Medium Enterprise
TASC	Think-tank for Action on Social Change

TII	Transport Infrastructure Ireland
TUI	Teachers Union of Ireland
UNECE	United Nations Economic Commission for Europe
VFM	Value for Money
W&WW	Water and waste water

Chapter 1 – Introduction and Overview of the Research

1.1 Introduction

This thesis explores the sustainability of public private partnership (PPP) in Ireland. It was motivated by concerns about risk transfer, value for money and transparency in Irish PPPs. These issues continue to pose problems in PPP procurement, yet despite these concerns, the policy has continued to be used. This chapter provides an overview of this thesis, starting with section 1.2 which highlights the research context and motivations for the study. Section 1.3 summarises the research questions and section 1.4 condenses the research methodology. Section 1.5 gives an overview of the research findings and section 1.6 sums up the contribution of this study. Finally, section 1.7 outlines the thesis structure and includes a thesis contents chart.

1.2 Research Context and Motivation

This section explores the research context and motivations for this thesis. The roots of the PPP concept can be traced back to the UK during the Thatcher, Major and Blair years (Andon, 2012). PPPs were formally introduced into Ireland in the late 1990s. There was little in-depth analysis at the time, however, as to why the Irish government should adopt this significant shift in public service and infrastructure delivery (Hearne, 2009). Chapter 2 describes the original motivations for the introduction of PPP into Ireland and traces the evolution of this policy through the financial crisis.

The numbers and types of public private partnerships (PPP) are overwhelming, making a definition of a PPP difficult (Akintoye et al., 2003). Often the terms “privatisation”, “PPP” and “PFI” are used interchangeably but they have different meanings in the academic literature. Chapter 2 examines this literature to make a clear distinction between them and explores how some writers describe PPPs in terms of the type of private sector input, some in terms of what PPP provides, and others in terms of the contractual arrangements involved.

An overview of the academic literature on PPP in chapter 2 also explores the key motivations for the introduction of PPP, in general as well as in the Irish context, focusing on risk transfer and value for money. PPPs are considered an attractive policy because they allow a transfer of risk to take place. Publicly available information on what constitutes risk transfer is very limited, however, and evidence suggests that there is confusion about both the meaning and measurement of risk transfer (Pollock et al., 2002; Froud and Shaoul, 2001).

Concerns have also been raised in the Irish context about whether the government cares about how accurately risk is priced in PPPs (Burke and Demirag, 2015).

The Comptroller and Auditor General (C&AG) for Ireland has stated that PPP procurement should be employed only where it is clearly established that it provides best value for money overall. Reeves (2013a), however, cites one case where the traditional procurement approach was cheaper but PPP was proceeded with. The C&AG has noted that the National Development Finance Agency (NDFA) has carried out value for money testing but has not published the results because of commercial sensitivity issues. The examination of the academic literature in chapter 2 identifies concerns regarding the evaluation of VFM and risk transfer, in general and specifically in the Irish context.

Chapter 2 brings to the fore key themes in the PPP literature, such as transparency and how PPP success and sustainability can be measured. Transparency and the public availability of all PPP contracts have been called for (Khadaroo, 2008; Boardman and Vining, 2012; Vining and Boardman, 2008a; Hodge, 2004). Research has shown that transparency in the PPP decision-making process requires both predictability in decision-making and the ready availability of information to all interested parties (Matos-Castaño et al., 2012).

PPP success is difficult to measure and evidence provided to document it is often lacking (Hodge and Greve, 2011). Recent research has focused on examining institutional impacts on the implementation of PPP policies in different contexts. This research has examined areas such as the "role that the institutional and political context plays in the process of PPP-enabling fields" (Matos-Castaño et al., 2012, p.3). Chapter 3 examines the literature on these institutional environments and finds that the main institutional capabilities necessary to ensure successful PPP programmes and project development are legitimacy, capacity and trust. Jooste, Levitt and Scott (2009) analyse these institutional capabilities in some detail and propose a theoretical model that is arguably sufficient to ensure the sustainable implementation of PPP projects. While this analysis does not specifically examine the success of PPP, it assesses a predictor of success, that is, sustainability.

This study is motivated by a desire to examine the reasons for the initial decision to adopt PPP in Ireland and for its continued use through the financial crisis and post the financial crisis. Prominent themes regarding PPP noted in the literature review are risk transfer, value for money, transparency and PPP success and sustainability. These themes were identified as concerns by the C&AG and the Committee of Public Accounts, and this creates a need to explain the continued use of PPP in Ireland.

1.3 Research Questions

This study identifies a gap in the literature regarding the motivations for the continued use of PPP post the financial crisis. It is important to know whether the motivations for the continued use of PPP in Ireland have remained the same or whether they are now different as well as whether its continued use is voluntary or coercive, as this will influence the sustainability of this policy. This produces the first research question:

RQ 1: What are the reasons for the adoption of the PPP policy and its continued use in Ireland?

A major gap identified in the literature review concerns the examination of the success or sustainability of PPP in Ireland. Chapter 3 reviews the literature on policy transfer theory and institutional theory as they relate to PPP. Policy transfer theory is examined using the Dolowitz and Marsh (1996 and 2000) framework which allows for an exploration of how PPP policy has come to be adopted in Ireland. The framework helps establish whether the policy has been transferred in a voluntary or a coercive context. Policy transfer theory is also used to explore whether lessons learnt have changed or improved PPP policy in Ireland and whether this has led to a more successful outcome. Accordingly, research question 2 is:

RQ 2: What is the extent of the influence of policy transfer on PPP adoption in Ireland?

The literature on institutional theory is examined to explore what is meant by the success of PPP. The literature reveals that the success and sustainability of PPP can be established by measuring the legitimacy, capacity and trust built around the PPP policy. Jooste et al. (2009) propose a theoretical framework for the actions needed to ensure the sustainable implementation of PPP projects. Applying a modified version of this framework to Ireland, this research explores the institutional environments arising within PPPs which lead to more sustainable and transparent PPP arrangements. Consequently, research question 3 is:

RQ 3: What is the extent to which institutional environments have been adapted to enable a sustainable PPP policy in Ireland?

The theories examined in chapter 3 were used to structure the pilot study, which is outlined in chapter 4, and later on informed the extended study, the results of which are outlined in chapters 5 and 6.

1.4 Research Methodology

This section provides an overview of the research methodology employed in this study. The research philosophy is described in greater detail in chapter 4. Chapter 4 notes that the epistemological approach taken in the study is postpositivist based on the ontological assumption that there is an objective reality which is socially constructed rather than objectively constructed, a position which is also known as critical realism. Consideration of the philosophical approach to this study is important as it influences the research design.

A qualitative research approach was considered to be more appropriate in this study due to the nature of the research questions. Qualitative research focuses on describing and explaining people's experiences, actions, exchanges, and social contexts (Strauss and Corbin, 1990) and on developing an understanding of the meaning and experience of human lives and their social worlds (Fossey et al., 2002). This reflects the research questions developed in chapters 2 and 3 in this study as well as the nature of the study object – PPP policy.

As mentioned, this study takes a postpositivist approach in examining PPP, and utilises qualitative methodology to answer the research questions posed. Furthermore, reliance is placed on a single case study approach in line with Merriam's (1998) model for the description of a single phenomenon, where the case is Irish PPP policy. More specifically, the focus of the research is the evaluation of PPP policy in Ireland over three distinct points in time. These stages relate to punctuation points in the policy's evolution where:

- Stage 1 PPPs (Pilot projects 1999 – 2002) involve the introduction of policy through the development of pilot projects;
- Stage 2 PPPs (Pre-crisis 2002 – 2008) involve the roll-out of this policy across different sectors up until the financial crisis; and
- Stage 3 PPPs (Post-crisis 2012 onwards) involve the use of this policy to create jobs and stimulate the economy.

The research includes a pilot study in which experienced practitioners were interviewed and interview questions were asked based on nine of the themes identified on the Jooste et al. (2009) framework (which proposes a theoretical framework for the actions needed to ensure the sustainable implementation of PPP projects). Although, the results of the pilot study were limited as only three interviewees were involved in this study, this justified the further detailed examination of the sustainability of PPP in Ireland which is presented here as the core of this thesis.

Accordingly, in 2016, the study was extended to include further interviewees from the public sector, the private sector and the civic sector. This multi-stakeholder approach allowed for flexibility in approaching different respondents while still covering the 19 themes of the Jooste et al. (2009) framework. Twenty-three semi-structured, in-depth interviews were conducted for the extended study and supplementary data was collected through other correspondence such as emails and telephone conversations.

A significant amount of data was thus generated during the extended study. This was initially analysed using thematic analysis in line with Braun and Clarke (2006). This method of data analysis has been used by previous policy studies such as Brady and Curtin (2012) and O'Dolan and Rye (2012). Thematic analysis allows for identifying, analysing and reporting patterns or themes within the data (Braun and Clarke, 2006) and can provide a rich and detailed account of the data (Vaismoradi et al., 2013). Like this study, Brady and Curtin (2012) also used Nvivo in the later stage of their analysis and Nvivo 11 software was used here to organise the data for data analysis purposes. Nvivo is a qualitative data analysis software package that allows researchers to store and retrieve qualitative data (Bazeley, 2009). It allows the researcher to analyse data of all forms systematically through the use of a database. This introduces rigour into the data analysis exercise and allows the researcher to search the data, run queries and reports and examine relationships. The specific details of how the data was gathered and analysed are discussed in chapters 5 and 6.

1.5 Overview of Findings

The main findings of this study are presented in chapters 5 and 6. In relation to research question one, this study finds that the reasons for the adoption of PPP as a procurement method have evolved over the different stages of PPP use in Ireland. It notes that throughout all stages there are issues with the legitimacy of PPP on account of weak political support and a lack of understanding of PPP, compounded by transparency problems and also problems with the capacity to procure and manage PPPs. The research finds that while the reasons for the introduction of PPP were largely voluntary, the reasons for its continued use became gradually more coercive.

This analysis is reinforced by the findings from research question two on policy transfer. The Patterns of PPP Adoption Framework, outlined in *3.3.3 Patterns of PPP Adoption Framework*, is used to examine the degree of PPP policy transfer in Ireland. The framework utilises elements of the Dolowitz and Marsh (1996 and 2000) framework. The findings of this part of the study indicate that, while the introduction of the policy was

initially voluntary, its continued use has changed from an indirectly coercive to a directly coercive pattern.

Using a consistent theoretical framework, research question three also utilises elements of the normative section of the Dolowitz and Marsh (1996 and 2000) framework to consider how the process of policy transfer is related to the success or failure of PPP policy. As outlined in detail in chapter 3, evaluation of PPP in Ireland from a financial point of view is not possible as this information is not publicly available. Augmenting the Dolowitz and Marsh (1996 and 2000) framework with the Jooste et al. (2009) framework, the research finds that in terms of legitimacy, stakeholder consent is mixed and lead institutional support, political support and the provision of a project portfolio are all weak. In terms of capacity, the research finds that methods to encourage market demand, policy learning, public sector expertise, quality of projects and a coordinated deal flow are all mixed but the performance of PPP is weak. The research also finds that in terms of trust, the provision of a complaints and arbitration process is strong but programme accountability and fairness of PPP procurement are weak. Overall the research suggests that the sustainability of PPP in Ireland is problematic unless steps are undertaken to address key policy, implementation and practice deficits.

1.6 Contribution

This study makes a number of contributions to the literature on the practice and policy of PPP. First, it examines PPP policy in Ireland and adds to the understanding of PPP in that country. Second, it contributes to the literature on policy transfer theory and institutional theory by using these two theories to examine the sustainability of Irish PPP policy. Third, it contributes to the literature on stakeholder salience theory by mapping stakeholder groups according to this theory. Fourth, it contributes to the literature on public policy by examining the de-politicisation of PPP in Ireland. Fifth, the findings of the study can be applied to examining the practice of PPP in other countries and settings, and the Patterns of PPP Adoption Framework can be utilised to gauge whether the practice of PPP is likely to be sustainable in a country or region.

1.7 Thesis structure

The analytical part of the thesis commences with Chapter 2 which provides a literature review with a focus on the evolution of PPP in Ireland. This includes an outline of the background to PPP in Ireland, the rationale for its introduction, the key reports and steps leading to its introduction and the oversight of PPPs by the C&AG and Committee of Public

Accounts. Chapter 3 continues the literature review by studying policy transfer theory and institutional theory. Specifically, the themes of legitimacy, trust and capacity are examined as they relate to the sustainability of PPP. The Patterns of PPP Adoption Framework is put forward as a means of examining the sustainability of PPP. Chapter 4 outlines the research methodology utilised in this study. Specifically, this chapter examines the research philosophy and its influence on the research design. The use of the pilot study is explained and its influence on the extended study outlined. This chapter also explains the data analysis approach utilised in chapters 5 and 6 and addresses the validity and reliability of the research design. Chapter 5 explains the application of the data analysis approach used in the extended study, and goes on to examine *Theme 1 Legitimacy*. Chapter 6 examines *Theme 2 Capacity* and *Theme 3 Trust*. Chapter 7 collates the core findings of the research questions and highlights the novel findings and contributions of the study. The limitations of the study and avenues for further inquiry are also outlined together with the conclusions of the thesis. Table 1.1 shows the thesis contents chart which summarises the contents of each chapter.

Table 1.1: Thesis contents chart		
Chapter	**Key contents**	**Theoretical and methodological underpinnings**
1	Introduction and Overview of the Research	
2	Literature Review: The evolution of PPP in Ireland This chapter examines the academic literature to explain the background and the introduction of PPP. Research question one is identified in this chapter.	
3	Literature Review: The Study of Policy Transfer theory and Institutional theory This chapter outlines the theoretical framework of this study which was utilised to inform the pilot study (in chapter 4) and the extended study conducted in 2016 (in chapters 5 and 6). Research questions two and three are identified in this chapter.	This chapter reviewed the literature on policy transfer theory as a means of exploring how PPP policy came to be adopted in Ireland. The literature on institutional theory is reviewed to explore how the success and sustainability of PPP can be understood.
4	Research Methodology This chapter aims to justify the research methodology in relation to the research questions stated in chapters 2 and 3. The research philosophy is explored and the design of the study is explained, including the pilot study and the data analysis method.	This chapter describes the pilot study undertaken which triangulated a document analysis, academic literature and three semi-structured interviews.
5	Theme 1: Legitimacy This chapter demonstrates the research methods applied in this study and their outcomes using the method of data analysis outlined in chapter 4.	The data collected in this study is analysed in line with institutional theory and policy transfer theory. Documents and literature included in the pilot study are reviewed again for more in-depth insight, are augmented with further documents and more recent literature, and are triangulated with data generated during semi-structured interviews. Thematic analysis is used to analyse data and report results.
6	Theme 2: Capacity and Theme 3: Trust This chapter demonstrates the research methods applied in this study and their outcomes using the method of data analysis outlined in chapter 4.	See chapter 5
7	Conclusions, Implications and Limitations This chapter provides a general conclusion to the thesis with a focus on the research questions initially posed.	This chapter returns to the theoretical underpinnings of this study to summarise the core findings in relation to the research questions.

Chapter 2 - Literature Review: The evolution of PPP in Ireland

2.1 Introduction

This chapter examines the academic literature to explain the background to the introduction of PPP. Section 2.2 gives definitions of PPP found in the literature on the meaning of PPP. This is followed by an overview of the academic literature to identify the main themes and issues of PPP. Section 2.3 discusses the background to the introduction of PPP in Ireland, and the key reports and steps leading to its implementation and an examination of the oversight of PPPs. Section 2.4 identifies the research themes arising from this literature review as well as the first research question.

2.2 Background of PPP

The roots of the PPP concept can be traced back to the UK but little is understood about how it came about (Andon, 2012). One of the main reasons for the introduction of a privatisation policy by UK Conservative governments between 1979 and 1997 was the belief that private ownership was more efficient (Parker, 1999). Private finance initiatives (PFIs – a form of PPP) were introduced in 1992 by the UK Conservative government, and they were seen as a way of encouraging private sector involvement in the provision and improvement of public services (Connolly and Wall, 2009). They were believed to illustrate "the government's ideological commitment to new public management reform" (Khadaroo, 2008, p.1342).

During the 1980s and early 1990s the UK Labour Party opposed the Conservatives' privatisation programme (Parker, 1999). However, a Labour party government partially privatised a state owned enterprise just before Margaret Thatcher and a Conservative party government came to power when in 1977 it sold some of the government's shares in British Petroleum as a means of raising cash (Netter and Megginson, 2001). When the new Labour administration came to power in 1997, it continued along the PFI path. It has been argued that in the UK, the push for privatisation was mainly political, driven by ideology, decreasing efficiency in publicly owned firms and the desire to weaken the power of the trade unions in these industries (TASC, 2012). Many local authorities and NHS Trusts, however, chose the PFI route due to a lack of funding alternatives (National Audit Office, 2011).

2.2.1 Defining PPP

The numbers and types of public private partnerships (PPP) are legion, making a definition of a PPP difficult (Akintoye et al., 2003) . Often the terms “privatisation”, “PPP” and “PFI” are used interchangeably but they have different meanings in academic literature. It is useful therefore to examine the literature to make a clear distinction between them.

Privatisation, PPP, alternative service delivery and municipal service partnerships originally meant the same thing (HM Treasury, 2000) but the term “PPP” was also used as an alternative form of privatisation. This was either part of a general trend within public management of needing to renew “the buzzwords from time to time”, or it reflected “the practice of advancing the same policy” but under a different and more likeable name (Hodge and Greve, 2007, p.34). For example, Hodge and Greve (2007, p.34) write that PPPs were hailed as the main alternative to contracting out and privatisation, and they talked of PPP as being a “language game” designed to cloud other strategies and purposes such as privatisation. A number of governments have tried to avoid using the terms “privatisation” and “contracting out” in favour of speaking of partnerships (Hodge and Greve 2007, p.34). The reason for this may be that “PPP” is a less contentious term than “privatisation”, which can be distracting to those ideologically opposed to it (Savas and Savas, 2000, p.2). However, distinctions between privatisation and PPP are made. For example, HM Treasury (2012) distinguishes between privatisation, where both ownership and risks are transferred to the private sector, and PPP models, which are characterised by joint working and risk sharing between the public and private sectors.

The terms PPP and private finance initiative (PFI) are often substituted for each other (Shaoul, 2002; Shaoul et al., 2009; Shaoul, 2011) and PFI is seen by some as a form of PPP (Akintoye et al., 2003; Chinyio and Gameson, 2009; Li et al., 2005a; Mouraviev and Kakabadse, 2016). PFI has also been described as the “dominant form” of PPP (Shaoul et al., 2009, p.230). In the UK New Labour re-branded PFI under the umbrella of public private partnerships (Wall and Connolly, 2009). However, some writers do make a distinction between the two terms. For example, PPP models are described as a joint working, risk sharing exercise (HM Treasury, 2012) involving joint ownership (Shaoul, 2011), while PFI is described as a longer-term private finance partnership (HM Treasury, 2012) involving contractual arrangements (Shaoul, 2011). However, PPP is the name by which the policy is known internationally (Shaoul, 2011; Leinhard, 2006) and PPP is said to refer to a range of public-private collaborations (Reeves and Palcic, 2017). For the purposes of the remainder of this thesis, the terms PPP and PFI are interchangeable.

Some writers give more detailed definitions of PPP and PFI. For example, Chinyio and Gameson (2009, p.4) describe PFI as being where "the private sector partner takes on the responsibility of providing a public service, including maintaining, enhancing or constructing the necessary infrastructure or facility, while the public sector specifies the type and quality of service desired". Grimsey and Lewis (2002, p.108) describe PPPs as "agreements where public sector entities … participate in … the construction or management of public sector infrastructure … or the provision of services by the private sector entity".

Despite this, a clear definition of PPP does not exist (Burger and Hawkesworth, 2011; Leinhard, 2006; Mouraviev and Kakabadse, 2016) and very few people are in agreement on the definition of what a PPP actually is (Hodge and Greve, 2007). As a result, different writers have a different understanding of its meaning (Mouraviev and Kakabadse, 2016) and often writers describe PPPs in terms of the type of PPP arrangement. A review of the literature has revealed many definitions of PPP from various researchers, and these are shown in Table 2.1. It is useful to note that the definitions of PPP have evolved over time and have been broadened.

Table 2.1: Definitions of PPP	
Author(s)	**Definitions of PPP**
Kumaraswamy and Zhang (2001)	"A PPP is a precondition for successful project procurement using BOT" p.195
Grimsey and Lewis (2002)	"The public sector entity transfers facilities controlled by it to the private sector entity usually for the term of the arrangement; the private sector entity builds, extends or renovates a facility; the public sector entity specifies the operating features of the facility; services are provided by the private sector entity using the facility for a defined period of time; and the private entity agrees to transfer the facility to the public sector at the end of a BOT arrangement while a BOO project, the private sector also finances an infrastructure facility effectively in perpetuity" p.109
Shaoul (2002)	"Partnerships provide the mechanism for delivering the funding that the public purse could not or would not afford, and as such they are the only way of improving public services. They deliver greater value for money (VFM) over the life of the projects because the private sector assumes some of the financial risks (and costs) that the public sector would otherwise carry" p.53
Reeves (2003)	"a means of investing in asset-based public services" p.163
Broadbent and Laughlin (2004)	"PPPs are long-term relationships involving the private sector in the provision of public services" p.4
De Bettignies and Ross (2004)	"Public-private partnerships (P3s) are contractual arrangements between government and a private party for the provision of assets and the delivery of services that have been traditionally provided by the public sector" p.136
Li et al. (2005a)	"PPP that seeks to combine the advantages of competitive tender and flexible negotiation, and transfer risk away from the public sector" p.25
Grimsey and Lewis (2005)	"the term can cover a variety of transactions where the private sector is given the right to operate, for an extended period, a service traditionally the responsibility of the public sector alone, ranging from relatively short term management contracts (with little or no capital expenditure), through concession contracts (which may encompass the design and build of substantial capital assets along with the provision of a range of services and the financing of the entire construction and operation), to joint ventures where there is a sharing of ownership between the public and private sectors" p.346
Teicher et al. (2006)	"as cooperative business ventures between the public and private sectors built on long-term contracts in which public services are delivered on the basis of clearly defined public needs" p.85
Deloitte (2006)	"Most common PPP models are … design, build (DB), design, build, maintain (DBM), design, build, operate (DBO), design, build, operate, maintain (DBOM), build, own, operate, transfer (BOOT), build, own, operate (BOO), design, build, operate, finance, maintain (DBFOM), service contract, management contract, lease, concession and divestiture" p.5
Hodge and Greve (2007)	"PPPs are loosely defined as co-operative institutional arrangements between public and private sector actors" p.33
Aziz (2007)	"Two common approaches have been used by governments for the implementation of public-private partnerships PPPs: a finance-based approach that aims to use private financing to satisfy infrastructure needs, and a service-based approach that aims to optimize the time and cost efficiencies in service delivery" p.918 "Several arrangements of PPPs have been utilized including the common build-operate-transfer (BOT), and its variants such as build-transfer-operate (BTO), design-build-finance-operate (DBFO), build-own-operate (BOO), design-build-operate maintain (DBOM), also, design-build (DB)" p.918
UNECE (2008)	"[PPP refers to] innovative methods used by the public sector to contract with the private sector, who bring their capital and their ability to deliver projects on time and to budget, while the public sector retains the responsibility to provide these services to the public in a way that benefits the public and delivers economic development and an improvement in the quality of life" p.1

Table 2.1: Definitions of PPP	
Author(s)	**Definitions of PPP**
OECD (2008)	"An agreement between the government and one or more private partners (which may include the operators and the financers) according to which the private partners deliver the service in such a manner that the service delivery objectives of the government are aligned with the profit objectives of the private partners and where the effectiveness of the alignment depends on a sufficient transfer or risk to the private partners" p.17
Coulson (2008)	"The term Public Private Partnership (PPP) is also used, potentially for any situation where the public and private sectors are in partnership: for example, joint venture companies, or situations where private sector interests are given concessions to provide services and gain returns from charges, such as toll roads or bridges, water supplies, power stations, waste disposal facilities, and prisons" p.484
Reeves (2008)	"a method for procuring public infrastructure and services" p.2
Shaoul et al. (2009)	"the public sector, rather than owning the underlying assets, becomes a procurer of services although it usually retains the delivery of the core professional services" p.230
McQuaid and Scherrer (2010)	"The first, most common, form of PPP concerns the provision of and/or operation of infrastructure … This type of PPP includes concessions and franchise … often involving the design, build, finance and operation (DBFO) … The second category of PPP is concerned with the introduction of private sector ownership into state-owned businesses … The third type of UK PPP is generating commercial value from public assets … Fourth, PPPs have also been used as mechanisms to promote specific policies. These may range from general local economic development programmes to more specific policies aimed at helping the UK to meet the Lisbon Agenda targets for employment and productivity growth through improved ICT infrastructure" p.3-4
Bovis, 2010	"The operational types of public private partnerships … Design-Build-Finance-Operate (DBFO) … Build-own-operate (BOO) … Build-develop-operate (BDO) … Design-construct-manage-finance (DCMF) … Buy-build-operate (BBO) … Lease-develop-operate (LDO) … Operate under License (OL) … Build-operate-transfer (BOT) … Build-own-operate-transfer (BOOT) … Build-lease-operate-transfer (BLOT)" p.7-8
Demirag et al. (2011)	Public private partnerships (PPP) are an established model for governments internationally to provide infrastructure based services, using private, as opposed to public, finance" p.294
Burger and Hawkesworth (2011)	"the government specifies the quality and quantity of the service it requires from the private partner(s). The private partner may be tasked with the design, construction, financing, operation and management of a capital asset to deliver a service to the government or directly to end users. Furthermore, the private partner will receive either a stream of payments from the government or user charges levied directly on the end users, or both. If the government is also responsible for a stream of payments to the private partner for services delivered, these may depend on the private partner's compliance with government specifications for quality and quantity" p.3
Bovis (2013)	"Public-Private Partnerships can be viewed as investment instruments" p.194
Reeves (2013a)	"[PPP] agreements are typically characterised by: (a) A long term contractual agreement between the public sector client and a private contractor. The contract period generally ranges between 20–30 years; (b) An integrated model of procurement whereby the private contractor generally contracts for all or most elements of the project life cycle. Typical PPP arrangements therefore include the design, construction and operation of the asset (for example, road or school). In addition, PPP arrangements commonly include a finance element whereby the private contractor finances the project and recoups the investment over the life of the contract. A range of different acronyms have been adopted to describe such PPPs. These include DBO (Design, Build, Operate), DBFO (Design, Build, Finance and Operate) and concession PPPs with the precise label applied depending on the exact roles and distribution of risks between the public and private sectors. (c) A significant degree of risk sharing between parties to the contract. This is a

Table 2.1: Definitions of PPP	
Author(s)	**Definitions of PPP**
	key characteristic that distinguishes the PPP model from traditional procurement models where most risks reside with the public sector. (d) A move from providing bidders with detailed input specifications to basing procurement on the basis of more open output specifications in order to encourage innovation and creative solutions from contractors" p.376
Mouraviev and Kakabadse (2016)	"a PPP refers to a contractual partnership which means a legal long-term contractual arrangement that involves asset construction by a private party and service provision on behalf of a public agency with the use of a constructed asset" p.12 "PPPs may take some specific forms such as a concession, or private finance initiative (PFI), or asset life-cycle contract" p.14
Reeves and Palcic (2017)	"A typical infrastructure PPP involves a long-term contractual agreement between the public and private sectors in which the latter agrees to construct a given asset (e.g. road or school) and provide related services for the duration of the contract (typically 20–30 years). This form of PPP is characterised by a number of notable features. First, PPP contracts are typically agreed for a bundle of activities that may include the design, build, operation and financing of a given project. Secondly, the PPP contract includes provisions for the sharing of project risks. Such risk-sharing provisions, which are not common under traditional procurement methods, are designed to provide incentives for efficient and effective delivery of the asset and related services" p.341

Some writers define PPP in terms of the type of PPP, such as outlined in Table 2.2. This ranges from design, build (DB) to design, build, finance, operate, maintain (DBFOM). It also includes different types of private sector involvement such as leases, concessions, joint ventures, franchises, various types of contracts and complete divestiture.

Table 2.2: Type of PPP	
Author(s)	**Definitions of PPP**
Kumaraswamy and Zhang (2001)	Build, operate, transfer (BOT)
Grimsey and Lewis (2002)	Build, operate, transfer (BOT); build, own, operate (BOO)
Grimsey and Lewis (2005)	Short term management contracts; concession contracts; and joint ventures
Deloitte (2006)	Design, build (DB); design, build, maintain (DBM); design, build, operate (DBO); design, build, operate, maintain (DBOM); build, own, operate, transfer (BOOT); build, own, operate (BOO); design, build, operate, finance, maintain (DBFOM); service contract; management contract; lease; concession and divestiture
Aziz (2007)	Build, operate, transfer (BOT), and its variants such as build, transfer, operate (BTO); design, build, finance, operate (DBFO); build, own, operate (BOO); design, build operate, maintain (DBOM); design, build (DB)
Coulson (2008)	Joint ventures and concessions
McQuaid and Scherrer (2010)	Concessions, franchise and design, build, finance and operation (DBFO)
Bovis (2010)	Design, build, finance, operate (DBFO); build, own, operate (BOO); build, develop, operate (BDO); design, construct, manage, finance (DCMF); buy, build, operate (BBO); lease, develop, operate (LDO); operate under license (OL); build, operate, transfer (BOT); build, own, operate, transfer (BOOT); and build, lease, operate, transfer (BLOT)
Burger and Hawkesworth (2011)	Design, construction, financing, operation and management of a capital asset
Reeves (2013a)	Design, Build, Operate (DBO); Design, Build, Finance and Operate (DBFO) and concession PPPs
Mouraviev and Kakabadse (2016)	Concession
Reeves and Palcic (2017)	Design, build, operation and financing

PPP is also defined in terms of what it provides, such as value for money and risk transfer (Shaoul, 2002); flexible negotiations (Li et al., 2005a); delivering projects on time and to budget, providing services to the public in a way that benefits the public and delivering economic development and improvements in the quality of life (UNECE, 2008); meeting service delivery objectives of governments and transfer of risk to the private sector (OECD, 2008); and risk sharing and incentives for efficient and effective delivery of assets and services (Reeves and Palcic, 2017).

Other definitions of PPP focus on the contractual arrangements involved (Teicher et al., 2006; Reeves, 2013a; Mouraview and Kakabadse, 2016; Reeves and Palcic, 2017; De Bettignies and Ross, 2004); the context of the relationship of the public sector to the private sector (Broadbent and Laughlin, 2004; Hodge and Greve, 2007; Demirag et al., 2011; McQuaid and Scherrer, 2010; De Bettignies and Ross, 2004); in terms of investment in public services (Reeves, 2003; Reeves, 2008; Shaoul et al., 2009); generating commercial value from public assets (McQuaid and Scherrer, 2010); its usage as an investment instrument (Bovis, 2013); and as a way of promoting specific policies (McQuaid and Scherrer, 2010). Two

general PPP arrangements can be identified. One emphasises the use of private finance and the other service delivery by the public sector (Abdel Aziz, 2007). Accordingly, arrangements where service delivery involves public and private sector investment are also at times described as PPP.

Many definitions relate to the private sector characteristics of a PPP arrangement. The private sector provides the finance for the project and may or may not design it. The private sector then builds the asset and again may or may not maintain and operate the asset. The public sector pays a unitary charge annually to the private sector for the duration of the PPP contract. After the expiry of the contact the asset reverts back to the ownership of the public sector.

For the purposes of this research, PPP is assumed to be as per the definition of the National Development Finance Agency (NDFA)[1] an arrangement between the public sector and a private sector company which provides public works and/or services. The state then pays a monthly unitary charge once construction is completed and the building is available for occupation. The duration of the PPP contract is usually 25 years. This definition closely mirrors the understanding of PPP prevalent in the UK where these projects are similarly understood as long-term partnerships where infrastructure is financed primarily by the private sector with payment being received from the public sector for usage over a period of 20 to 30 years (Akintoye et al., 2003).

2.2.2 Overview of the academic literature on PPP

This section examines the academic literature on PPP structured in terms of the key motivations for PPP- value for money and risk transfer. It also highlights the issue of transparency of PPP and discusses how PPP success and sustainability can be measured.

2.2.2.1 Value for money

PPPs are considered an attractive policy as they are deemed to be VFM (Deloitte, 2006). The exact meaning of VFM is an under-researched area and the term often has different meanings (Andon, 2012). A precise measure for VFM does not exist, but it is believed to include both qualitative and quantitative aspects and involves an element of judgment on the part of government. It can be defined as what a government judges to be an optimal combination of quantity, quality, features and price (i.e. cost), as expected (sometimes, but not always, calculated) over the whole of the project's lifetime. The VFM

[1] https://www.ndfa.ie/our-services/frequently-asked-questions

concept attempts to encapsulate the interests of the public, both as taxpayers and recipients of public services. A project, whether it is a PPP or a traditionally procured project, should be considered for procurement if it represents VFM (Burger and Hawkesworth, 2011).

The meaning of VFM has become formalised by the interpretation of its meaning by public auditors such as the National Audit Office (NAO) and the Audit Commission in the UK (Heald, 2003). The UK NAO has concluded that there is no one best way of establishing VFM and suggests that individual procurers need to establish their own methodologies for assessing performance (Edwards and Shaoul, 2003b). VFM studies are often carried out by the same government unit that is responsible for deciding whether to choose PPP or traditional procurement and which also manages the contract negotiations (Boardman and Vining, 2012). VFM is often carried out by consultants from the private sector and the use of such consultants can influence the methodology used to calculate VFM. This was the case in the UK when the Treasury Task Force, largely staffed with personnel from the large accountancy firms, brought in private sector advisers to devise the methodology for assessing whether PFI deals would be VFM. It has been argued that this led to changes in the methodology making assessments more biased in favour of the private sector (Shaoul, 2011).

Value for money in the literature is defined in terms of three elements: economy, efficiency and effectiveness, also known as the 3Es (Andon, 2012; Shaoul, 2005; English et al,. 2010). Economy is said to focus "on financial inputs, to judge whether the costs were a low as possible" i.e., spending less. Efficiency is defined "a ratio of inputs to outputs, measurable in financial or non-financial terms" i.e., spending well. Effectiveness "focuses on whether the outputs and outcomes achieve what was wanted or not" (Jones and Pendlebury, 2000, p.22) i.e., spending wisely. The optimisation of VFM is defined as the maximisation of outcomes with respect to every unit of monetary value spent on inputs. This is only possible if "outcomes are maximised with respect to outputs (effectiveness) and if outputs are maximised with respect to inputs (efficiency), which in turn are maximised with respect to every dollar, euro, etc. spent on the inputs (economy)" (Burger and Hawkesworth, 2011, p.52). It has been argued that aiming to achieve VFM will help to create a culture that will achieve outputs and outcomes rather than simply complying with process (OECD, 2008). Outcomes, however, are difficult to measure, and therefore a VFM evaluation system should include all three Es (English et al., 2010). Evaluating effectiveness should then move beyond a "watchdog" role, providing an ex-post reactive analysis, to a "sheepdog" role, which involves trying to improve performance (English et al., 2010, p.66). However, VFM is seldom defined in public policies due to commercial confidentiality (Khadaroo, 2008).

VFM can be difficult to evaluate as it involves predicting costs over the whole of the life of a project which could extend 30 years into the future (Shaoul, 2002). The general approach to making VFM cost comparisons is to construct a model of what it might cost the public sector to deliver the services specified for the project users over the contract life. This is often referred to as the public sector comparator (PSC) model. The majority of countries using PPPs use a PSC to compare the VFM of PPP projects with the VFM of traditionally procured projects (Burger and Hawkesworth, 2011). In Ireland the methodology used is called the public sector benchmark (PSB).

The PSC or PSB involves the use of a "discount rate" which is the market cost of capital in a single percentage rate (Pollock et al., 2002, p.1204) and the net present value (NPV) technique. The costs of the project delivered through the traditional route and the PPP route are discounted back into the current day's terms at a rate equal to the cost of capital using NPV. The project with "the higher net present value (or lower net present cost)" is the preferred option (Coulson, 2008, p.495). Research into NPV and the PSC show that the assumptions underlying NPV calculations with regard to PFI are contestable (Shaoul, 2002; Cooper and Taylor, 2005; Froud and Shaoul, 2001). Specifically, research in the UK has shown that VFM may not be "sound" (Cooper and Taylor, 2005, p.507).

The PSC is considered to "be subjective and sensitive to changes in cash flows, discount rates and risk assumptions" and it does not deal effectively with qualitative and social factors (Khadaroo, 2008, p.1332). Evidence from Australia has shown that crucial documentation in terms of the PSC calculations and financial arrangements underlying the PPPs was being withheld from the public and was not even provided through Freedom of Information requests (Hodge and Greve, 2007). Analysis of the early UK PFI experience notes that VFM depended on the efficiency gains through private sector involvement but it was difficult to obtain clear evidence of this in the absence of an accurate PSC (Shaoul, 2005).

VFM analysis seems to focus on costs and benefits to the purchaser but the question must be asked "VFM for whom?" A project could be a good deal for the purchaser but a poor deal for the public (Heald, 2003). For example, a project may exhibit VFM but may not be affordable. Despite this, VFM is believed to be the main justification for the implementation of PPP (Shaoul, 2002). Another aspect of using VFM is that there is an over-emphasis on cost efficiencies rather than on service delivery. This was found in a VFM review of prisons in New South Wales when cost objectives took precedence over the objectives of incarceration (Andrew and Cahill, 2009).

Defining VFM in terms of monetary outcomes spent on inputs addresses only "supply-side" efficiencies and effectiveness and fails to address "demand-side" efficiency, which is more difficult to measure. It is, however, essential to measure whether a good or service represents VFM (Burger and Hawkesworth, 2011, p.52). The welfare that individuals derive from consuming goods and services cannot be measured directly. It is easier to measure this in a private market as individuals translate the welfare that they expect from consuming a good into demand. Many goods and services which the government supplies suffer from the "free-rider" problem which means that demand is not revealed and this will limit the extent to which charges can be imposed (Burger and Hawkesworth, 2011, p.52). Identifying the desired level of service delivery might result in the government subsidising a service or a private partner. This renders the service inefficient, with it demonstrating little or no VFM. VFM is not just a quantitative exercise. It also requires a level of qualitative judgment on the part of government such as "what are the appropriate services to deliver, and what will constitute the optimal combination of quantity, quality and features?" Once these questions have been answered, the PPP needs to be able to demonstrate "economy, technical and economic efficiency, and technical and economic effectiveness" in the delivery of those services (Burger and Hawkesworth, 2011, p.53). Ultimately, failure to demonstrate VFM will be judged by the public when it comes to casting votes in elections (Burger and Hawkesworth, 2011).

Broadbent et al. (2003) attempted to design a framework which would judge VFM in PFI projects over the longer term. They examined pre-decision evaluations analysed as: (i) financial: using the PSC and risk transfer to make a business case; and (ii) non-financial: using measures such as bed reductions (in the NHS to determine goals over a long-term timeframe). They offered a post-project evaluation framework which should comprise three elements: (1) an overall post-project evaluation which should concentrate on only PFI aspects such as risk allocation, facilities management and non-financial aspects; (2) an evaluation which should go beyond merely monitoring outcomes to investigate any project concerns identified; and (3) an assessment of non-financial, culturally related, operational aspects of the PFI (Broadbent et al., 2003, p.437). A problem with a post-project evaluation is that it requires clearly defined contract specifications which are usually written in general terms making ex-post evaluation difficult (Edward and Shaoul, 2003b).

Research has found that governments can decide to proceed with PPPs as a policy agenda despite the outcome of VFM tests (Hodge, 2004), while VFM itself may be politically influenced as the outcome of long-term contracts is uncertain. By the time the contract is well

established, the political scene will have moved on and the original Minister who made the final decision to use PPP will more than likely not have to deal with the long-term consequences of PPP (Spackman, 2002; Hodge, 2004). Research has also found that consultants are often used to carry out VFM tests. In Scotland, doubt has been cast on the Scottish Executive use of a leading accountancy firm to independently verify VFM figures (Cooper and Taylor, 2005), suggesting that private sector consultants may have a vested interest in the privatisation of public services.

Research has shown that an ex-ante assessment of VFM is not sufficient to ensure that a project will deliver VFM. A further requirement is an ex-post VFM assessment that examines whether VFM has been delivered (Burger and Hawkesworth, 2011; Asenova et al., 2002). Research into ex-post evaluations of PPP remains seriously underdeveloped in the literature. Accordingly, a 2012 paper suggested that there was an opportunity for researchers to take the lead "driving structural, policy and procedural debate" to progress the development of ex-post evaluations of PPP (Andon, 2012, p.893).

2.2.2.2 Risk Transfer

PPPs are considered an attractive policy as they allow a transfer of risk to take place. Publicly available information on what constitutes risk transfer is very limited and evidence suggests that there is confusion about both the meaning and measurement of risk transfer (Pollock et al., 2002; Froud and Shaoul, 2001). However, it is imperative that risks are identified in privatised projects, the measurement of risks is quantified and the extent to which risks are allocated between the partners is covered in contracts (Heald, 2003).

The literature identifies different types of risk as construction, demand, residual value, site risks, design, technical, environmental, development, construction and commissioning, operating and maintenance, financial, revenue, ownership, uptake/patronage, force majeure, project default, regulatory/political, governance and legislative (Hodge and Greve, 2007; Grimsey and Lewis, 2002; Ball, 2011; Heald, 2003; Hodge, 2004). The literature also makes a distinction between "risk" and "uncertainty". "Risk" is used when probabilities can be estimated and "uncertainty" when they cannot be (Froud, 2003, p.568). Froud (2003, p.570) also notes that risk is used to cover two scenarios of "the likelihood of something going wrong, and uncertainty, meaning that the outcome of a course of action is indeterminate or subject to doubt".

The theory of risk management is that risk should be allocated to the party best able to manage it (Burger and Hawkesworth, 2011; De Bettignies and Ross, 2004; Murphy, 2008;

Hodge, 2004; Vining and Boardman, 2008b; Burke and Demirag, 2015). It is often assumed that the private sector is less averse to risk and will structure projects so that they are managed more efficiently (Gaffney et al., 1999). For example, shifting construction risk to the private sector is said to incentivise that sector to control this risk "through careful and high quality construction" (De Bettignies and Ross, 2004, p.139). The sector bearing the risks is paid a premium to do so, and if more risks are borne by the private sector, this will require higher financial returns (Hodge, 2004). "Best" refers to the party who can manage the risk at least cost. To manage usually relates to "the party best able to deal with the results of the realised risk" (Burger and Hawkesworth, 2011, p.2). However some argue that risks should be allocated to the party that is best able to "control" it (Reeves and Palcic, 2017, p.341). Control theory, meanwhile, holds that risk should be allocated to the party best able to "bear" it (Pollock et al., 2002, p.1208). However, if this were to happen then the public sector would be allocated all the risk (Pollock et al., 2002).

Risk transfer is of crucial importance in PPPs for two reasons. First, the level of risk transfer determines whether the asset remains on the public sector balance sheet. Second, risk transfer can be an economic benefit to the public sector since it is relieved of the potential financial responsibility when risky events actually occur. This can be converted into equivalent cash flows using the expected value concept. Expected value is the probability of the risky event occurring multiplied by the cost of that event. Risk transfer can have significant influence on the value for money (VFM) calculation and there is evidence that the public sector comparator (PSC) and hence the VFM for a number of schools projects in Scotland would have favoured direct procurement over PPP but for the risk transfer (Ball, 2011).

Contracts should be drawn up that identify, allocate and manage risk, as this can demonstrate an ex-ante VFM. As VFM is so sensitive to risk transfer, it opens the possibility that risk transfer will be designed such as to demonstrate value for money (Khadaroo, 2008) while in effect masking the extent to which the public sector retains the risks of the project (Froud, 2003). The literature also finds that to be competitive and win a contract risk may be underpriced, and concerns have been raised as to whether the Irish government cares how correctly risk is priced in PPP bids (Burke and Demirag, 2015). This also supports the view that "the allocation of demand risk may be based on suboptimal risk allocation, with stakeholders tweaking the process to diffuse risk to their advantage" (Burke and Demirag, 2015, p.202).

In the UK, there are examples of PFI projects where the VFM case rested almost entirely on risk transfer and where the amount of risk transferred was almost exactly what was needed to tip the balance in favour of undertaking the PFI mechanism (Hodge and Greve, 2007; Pollock et al., 2002; Cooper and Taylor, 2005). An example of the VFM case resting upon the risk transfer arose in the Pimlico schools project in the UK where the amount of risk transferred was almost the same as the amount required to fill the gap between the cost of the PFI and the cost of traditional procurement (Edwards and Shaoul, 2003a).

While some risks may be transferred to the private sector under PPPs, it can cause other risks to be added to the public sector's portfolio. Examples of such risks include service breakdown, where the state intervenes as it is reluctant to suffer the political risk of a contract not being delivered. For example, in the UK, the Royal Armouries Museum was rescued by the government after it was moved from London to Leeds and ambitious visitors numbers failed to materialise. In the case of the Pimlico schools project, when student numbers declined, the demand risk was shared between the council and the bidder. The impact of this meant that, over time, if Pimlico's school's enrolment declined, as a PFI contract is a long-term commitment, pupils would have to be sent to Pimlico regardless of the effect this would have on other schools in the local area. This would result in "the risk being shifted on to third parties, that is, other schools and pupils" (Edwards and Shaoul, 2003a, p.3).

Private contractors will naturally seek to protect their income from uncertainty, so if significant uncertainty exists, it is unlikely that risk transfer will occur (Gaffney et al., 1999). In the early days of PFI procurement, the UK went so far as to pass the NHS Residual Liabilities Act in 1996 and the NHS (Private Finance) Act in 1997, which gave assurances to banks that should the NHS Trusts go bankrupt, the Government would provide financial reimbursement (Broadbent et al., 2003). Where a specific NHS Trust is unable to pay the annual tariff to the PFI provider, the NHS will have to intervene, causing public funds to be diverted into private hospitals (Shaoul, 2005). In the case of the UKs National Air Traffic Services, PPP risk transfers were found to be problematic, yet for political and public service reasons the government could not allow the project to fail (Shaoul, 2003). In Scotland the assets of two projects, the Skye Bridge and the Inverness Airport terminal, were eventually purchased by the public sector from the PFI consortia for a considerable sum because the continuation of the PFI format had become politically unacceptable (Coulson, 2008).

In the words of Shaoul (2011, p.216) "should things go wrong, they [the private partner] have been able to fall back on the state, by either renegotiating the deal or handing back the keys". In an assessment of the failed PPP project of Deer Park Prison in Australia, it

was found that risks were not easily measured in monetary terms and were difficult to estimate into the future, resulting in transfer of risk to the private sector not being easy to achieve (English and Walker, 2004). Another major issue with risk transfer is lack of transparency. Financial information which is necessary to consider the transfer of risk may not be in the public sphere and may be withheld for reasons of commercial confidentiality (Gaffney al., 1999).

2.2.2.3 Transparency

Transparency surrounding PPP is an issue identified in the literature. There have been calls for transparency and the public availability of all PPP contracts (Khadaroo, 2008; Boardman and Vining, 2012; Vining and Boardman, 2008a; Hodge, 2004). Research has shown that for there to be transparency in the PPP decision-making process, there should be predictability in decision-making and information should be readily available to all interested parties (Matos-Castaño et al., 2012). It is necessary to be transparent in the choice of PPP for projects (Matos-Castaño et al., 2012) and the decision-making surrounding this should be transparent (Jooste et al., 2009). In particular, researchers argue that procurement and negotiations should be conducted in a transparent way, as should the awarding of projects (Jooste et al., 2009; Matos-Castaño et al., 2012; Matos-Castaño et al., 2014). It has also been argued that it is essential that the public is well informed regarding project details such as targets and performance indicators (Jooste et al., 2009). Research, moreover, calls for governments to be transparent and accountable with regard to PPP and not to yield to private sector demands for confidentiality (Murphy, 2008). There seems to be a belief in political circles that if there is political support for PPPs, it proves their value and lessens the need for public and parliamentary scrutiny (Newberry and Pallot, 2003).

2.2.2.4 Measuring PPP success and sustainability

Governments and businesses differ in the way they measure the success of contracting activities. Economic evaluations of PPPs occur before the projects begin but there are few ex-post evaluations carried out on the long-term success or otherwise of these projects (Ball, 2011).

The private sector provides financial return to shareholders and measures success using ratios such as return on equity or assets. The government, however, has different objectives, with the main aim being to use assets wisely to maximise benefit return to the community (Hodge, 1999). This has also been described as maximising social welfare, namely, identifying what is the best value for the whole of society (Boardman and Vining,

2012). It is convenient for governments to measure the success of privatisation activities in financial terms as this is easily measurable (AlHussaini and Molz, 2009), namely, whether the costs of the projects which have private sector involvement are lower than those that are funded through traditional procurement (Jones and Pendlebury, 2000). This, however, ignores the fundamental objectives of PPP, that is, whether the project has secured VFM and whether appropriate transfer of risk to the private sector has been accomplished (Akintoye et al., 1998).

Therefore, how can success in PPP be measured? Hodge (1999, p.457) suggests a framework for judging the contracting out of government services which involves an analysis of the economic, social, democratic, legal and political aspects. While financial ratios of performance can be used in some of these areas, most do not fit neatly into performance figures (Hodge, 1999). The Dolowitz and Marsh (1996 and 2000) framework asks how the process of policy transfer relates to policy success or failure. It does not, however, give guidance as to how policy success can be measured. The literature, too, recognises that PPP success is difficult to measure and that existing approaches are often weak (Hodge and Greve, 2011). Jooste, Levitt and Scott (2009) propose a theoretical model they describe as sufficient to ensure the sustainable implementation of PPP projects which gives guidance on the prerequisites for the successful development of a PPP program. While this is not specifically examining the success of PPP, it is assessing a predictor of success, that is, sustainability. The Dolowitz and Marsh (1996 and 2000) framework and the Jooste et al. (2009) framework are discussed further in chapter 3.

2.3 Background to PPP in Ireland

This section explores rationales supporting PPP in Ireland via the academic literature. It examines the key reports and steps taken which eventually led to the introduction of PPP in Ireland. It also explores the oversight of PPPs in Ireland by the Comptroller and Auditor General and the Committee of Public Accounts.

2.3.1 The rationale for the introduction of PPPs in Ireland

Privatisation policies in Ireland have largely been driven by pragmatism and have been specific to enterprises rather than having been driven by ideology (Palcic and Reeves, 2004). There is a history of private sector involvement in service and infrastructure delivery in Ireland. Religious institutions have run schools and hospitals (Connolly and Wall, 2009), the East Link and West Link toll bridges in Dublin were built in the 1980s and 1990s with private sector involvement, there was some privatisation of local authority refuse collection services

during the 1990s (Reeves, 2003), and several state-owned enterprises in Ireland have been privatised since the 1980s.

PPPs were formally introduced into Ireland following the recommendations in the Report to the Inter-Departmental Group in Relation to Public Private Partnerships (Farrell Grant Sparks and Goodbody Economic Consultants, in association with Chesterton Consulting, 1998). There was little in-depth analysis at the time of why the Irish government would adopt this significant shift in public service and infrastructure delivery (Hearne, 2009). The main motivation appears to have been filling the so-called infrastructure gap and implementing the conservative policies of the then Minister for Finance, Mr. Charlie McCreevy TD. Reeves (2003) cites Minister McCreevy:

> The increasing weight of infrastructural investment, which will be required in the future, coupled with the Government's commitment of fiscal restraint, has presented an opportunity to seek other ways of financing costly capital needs of the country. Therefore it is my aim to attract greater participation from the private sector in the financing and development of infrastructure projects (Reeves, 2003, p.64)

The main rationale for the adoption of PPPs relates to problems associated with Ireland's infrastructural deficit. This came about from the curtailment of the capital programme followed by a period of rapid economic expansion. The period from the 1980s to the early 1990s saw the curtailment of the public capital expenditure programme, with expenditure in real terms falling each year from 1982 to 1989. Ireland relied on transfers from the EU to fund the renewal of public capital investment from the late 1980s (Reeves, 2003). During the period 1993 to 2000, the annual real growth rate of the Irish economy was more than double the average recorded over the previous three decades, a rate movement from 3.5% to 8%, and Ireland was considered the fastest growing economy in the OECD by the year 2000 (Reeves, 2003).

Despite EU injections of investment, there were concerns about the need for greater investment in physical infrastructure due to Ireland's rapid economic expansion. There were also concerns about the prospect of reduced investment by the EU (Reeves, 2003). It is arguable that the prospect of reduced investment arose in part as a consequence of the rapid economic expansion. Overall it was accepted that it was important to invest in infrastructure to sustain economic growth.

Ireland's options were limited, however, by fiscal constraints in the form of the Maastricht Treaty convergence criteria, imposed by membership of the single European

currency. The criteria stipulated that the budget deficit should not exceed 3% and the ratio of gross government debt to GDP should not exceed 60%. Ireland's budget deficit never went above 3% during the 1990s and the ratio of gross government debt fell below 60% in 1998 and remained there until 2008. In fact, the exchequer current account was in surplus consistently from 1996 to the end of 2007 and the overall exchequer balance was in surplus from 1998 to the end of 2004 with the exception of 2003 (Department of Finance, 2003; Department of Finance, 2012). A similar situation occurred in the UK during this period when economic performance was within the convergence criteria, yet the government pursued a policy of Private Finance Initiative (PFI) (Gaffney et al., 1999), although the UK was not subject to the convergence criteria, as it had not indicated a wish to join the euro.

Nonetheless the Irish Minister for Finance decided to promote PPPs as a means of easing burdens on the exchequer (Reeves, 2003). The unanswered question is why, at a time when the country was fiscally healthy, the Irish government pursued a programme of private sector involvement and an injection of private finance in the delivery of service and infrastructural projects. The National Economic and Social Council highlighted one possible reason for the introduction of PPPs as being the perceived benefits of efficiency gains and expertise not available in the public sector (NESC, 1999).

Perhaps political expediency is an alternative explanation for the introduction of PPPs as they offer short-term political attractions to governments by providing early project infrastructure and also moving capital expenditure off balance sheet (Hodge and Greve, 2007). On the global political stage PFI-type PPPs enjoyed policy popularity as well as commercial attractiveness. Hodge and Greve (2007) commented that they are an attractive policy for governments that are eager to please markets.

Political expediency might also have been a function in why the government of the day was receptive to the suggestions of the private sector. In January 1998, the Irish Business and Employers' Confederation (IBEC) and the Construction Industry Federation presented a detailed submission to the Irish government which argued for the use of PPPs as a means of addressing the infrastructure deficit (Reeves, 2003). Probably these suggestions would not have been without influence. The adoption of PPP proceeded gradually.

2.3.2 Key reports and steps taken leading to the introduction of PPP

This section examines the key reports and steps taken which led to the implementation of PPP in Ireland, including, the Farrell Grant Sparke et al. report (1998), the National Economic and Social Council report (1999), the National Development Plan 2000-2006 and

the Programme for Prosperity and Fairness (2000). The section also examines the framework for the introduction of PPP, what PPP legislation was introduced and the inception of the National Finance Development Agency (NDFA). It concludes by examining developments in PPP since 2007 and the introduction of the domestic infrastructure stimulus programme.

Farrell Grant Sparks et al.(1998) report

In 1998, an interdepartmental group (IDG) was established to advise the Irish government on the potential for PPPs. The IDG commissioned a report to explore the possibility of introducing PPPs into Ireland, particularly in roads. Farrell Grant Sparks and Goodbody Economic Consultants, in association with Chesterton Consulting, reported to the IDG on PPPs in July 1998. The report developed criteria for and advised on the issues arising in implementing the PPP concept.

Among the issues addressed were:

- The criteria to be applied in considering whether to adopt the PPP approach, taking account of the economic and budgetary contexts;
- The determination and prioritisation of the key objectives of the PPP approach, with particular reference to roads projects;
- The possibilities regarding partial self-financing of projects;
- The construction of hypothetical cases for comparison purposes using a public sector comparator model (PSC) to illustrate costs and benefits of model cases;
- The identification of areas where the highest level of savings were likely to arise from the use of PPPs.

The report identified three advantages in PPP procurement: focus on service outcomes rather than the provision of assets, optimum risk allocation, and value for money. The report stated that the PPP approach should not be pursued where it is inappropriate, and it listed criteria that are key to reaching a decision on the implementation of PPPs. The report concluded that PPP was not a panacea to be applied in all or even the majority of cases. It should be seen as playing an additional or incremental role which should not displace existing programmes or plans for exchequer capital spending, that is, traditional procurement.

The authors of the report discussed the likelihood of so-called hiccups in implementing PPPs, as experienced by the UK. Their discussions with the Treasury Task Force convinced them of the importance of a central PPP unit to be established in the Department of Finance to oversee the PPP process. This was created in January 1999, and at the same time PPP units were set up in the Departments of the Environment and Local

Government, Education and Science and Public Enterprise (Connolly and Wall, 2009). The Central PPP unit now resides in the Expenditure Policy and Reporting Division (including Education and Justice Vote Groups) in the Department of Public Expenditure and Reform. The unit also hosts a high level Steering Committee which oversees progress on the PPP projects announced in the recent Government Stimulus Initiative. The remit of the Steering Committee[2] is:

- to ensure the correct projects are selected and that they can be progressed in a timely manner;
- to establish milestones and delivery targets for the projects;
- to identify ways to streamline PPP processes;
- to prepare project reports for government;

A similar approach has been adopted in the South African National Treasury where a dedicated PPP unit has been established. It has "the final authority in the approval of PPP agreements" (Akintoye and Beck, 2009, p.xxvii).

The National Economic and Social Council (1999), the National Development Plan 2000-2006 and the Programme for Prosperity and Fairness (2000)

In 1999, the National Economic and Social Council (NESC), which advises the government on strategic issues for Ireland's social and economic development, supported the introduction of PPPs in Ireland and justified it as a means of filling the infrastructure gap. It stated that:

> As the pace of economic growth in both developed and developing countries over the last 20 to 30 years has proceeded, infrastructure needs have become more acute. Budgetary pressures have forced governments and other public sector agencies to look for alternative solutions to finance infrastructure. (NESC, 1999, p.473)

The NESC outlined the use of PPPs in Europe and internationally in the following terms:

[2] http://ppp.gov.ie/about-the-central-unit/

> In Europe, these pressures have been heightened due to the constraints imposed by the Maastricht criteria and now the Stability and Growth Pact. At the same time, there has been a general thrust towards increased privatisation, with growing recognition that private sector provision of services and functions previously provided directly by the State, can be more efficient and cost-effective. PPP has been extensively used by a wide number of countries including the UK, France, the US, Spain, Portugal, Greece, the Netherlands, China, Hong Kong, Mexico, Turkey and many others.
>
> (NESC, 1999, p.473)

The NESC highlighted another possible motivation for introducing PPP as being the perceived benefits of efficiency and expertise that are not available in the public sector. Outlining the benefits of PPP, the NESC stated that financing costs are only one element as the public sector can borrow more cheaply than the private sector. The main benefit of PPP was seen that it offers increased value for money over traditional procurement methods. PPP, it stated, is a mechanism for obtaining private sector efficiency and expertise rather than just a way of funding infrastructure projects.

The NESC report also stated that PPP was not suitable for all projects and a framework should be developed to assess its appropriateness for different projects. It recommended that the choice between PPP and the conventional procurement approach should be made on the basis of a thorough assessment of value for money. Also, the potential to develop PPP in areas of social and community infrastructure should be explored alongside those that provide an economic benefit, such as toll roads.

The approach to PPP was endorsed by the Fianna Fáil-Progressive Democrat government of the 28th Dáil (1997 – 2002), when a number of PPP pilot projects were announced in 1999 by the then Minister for Finance, Mr Charlie McCreevy TD. The pilot projects included areas of roads, schools, sewerage or water treatment schemes, a solid waste facility and a section of the Luas light rail project (Connolly and Wall, 2009). The aim of the pilot projects was to identify issues and problems encountered during implementation and to use this information to develop PPP policy and enhance the PPP process via a "learning by doing" approach.

The National Development Plan 2000 – 2006 (NDP) confirmed the government's commitment to PPP when it listed the potential for PPP in transport and environmental projects (National Development Plan, 2000). Of the total €22.3 billion investment in physical infrastructure planned under the NDP, "a minimum indicative target of €2.35 billion [10.5%]

was identified to come from private finance" (Reeves, 2003, p.164). The social partnership agreement, Programme for Prosperity and Fairness (Department of the Taoiseach, 2000), stated that PPP would make a significant contribution to the implementation of the NDP, drawing on the experience gained from the then current PPP pilot projects. It noted that mechanisms would be introduced, agreed by the relevant social partners, and operationalised to deliver efficient, transparent and fair contracts, tendering and contractual procedures for traditional and new - PPP - procurement methods.

Framework for PPPs, PPP legislation and the NDFA

In November 2001, the then Minister for Finance, Mr Charlie McCreevy TD, launched the "Framework for Public Private Partnerships: Working together for quality public service" (Public-Private Partnership Advisory Group, 2001). This involved an advisory group comprising representatives of the Irish Business and Employers' Confederation, the Irish Congress of Trade Unions, the Construction Industry Federation and Forfás as well as the main departments and agencies engaged in the PPP programme. The framework stated that the delivery of projects through PPPs gave an opportunity to maximise the interaction and co-operation between the public and private sectors. The framework included statements of the scope, principles and goals of the PPP programme, the identification of key project implementation issues, including the requirement for central co-ordination of the programme by the central PPP unit, as well as a recognition of the critical role of social partnership and stakeholder consultation.

Throughout 2001 and 2002 a number of legislative Acts were established to facilitate the financing and future participation of the Irish state in PPPs. These included:

(a) the Transport (Railway Infrastructure) Act 2001, which established the Railway Procurement Agency (RPA), an independent statutory public body with responsibility for procuring new metro and light rail infrastructure and services through PPPs, joint ventures or other means, as determined by the Minister with responsibility for Transport, since amalgamated with the National Roads Authority;

(b) the State Authorities (Public Private Partnership Arrangements) Act 2002, which facilitated the participation by Irish State authorities in the PPP process by providing certainty regarding the powers of Irish State authorities to enter into PPPs and gave local authorities the power to enter into joint ventures; and

(c) the National Development Finance Agency Act 2002 which created an agency that reports to the Minister for Finance and makes it the statutory financial adviser on capital projects in excess of €20 million.

By the time the National Development Finance Agency (NDFA) was launched in November 2002, the EU had decided that PPP projects should be assessed case by case and, unless significant risk was transferred to the private sector, the funds raised by the NDFA would still count against the general government balance (Reeves, 2003). The funding of infrastructure development by the NDFA is through long-term debt and equity rather than through alternative means of infrastructure financing. Providers of long-term debt have been the European Investment Bank (EIB), the Council of Europe Development Bank (CEB), the National Pensions Reserve Fund (NPRF), now known as the Strategic Investment Fund, domestic banks, domestic pension funds and foreign investors. Equity funding has been through the sale of long-term bonds (National Development Finance Agency, 2013). The proceeds from the sale of State assets are also mentioned as an equity source (National Development Finance Agency, 2013).

The role of the NDFA was expanded with the National Development Finance Agency (Amendment) Act 2007. This extended the functions of the NDFA to allow it to establish a Centre of Expertise for procuring PPP projects on behalf of State authorities. Through this legislation, the NDFA was allocated a new procurement function, giving the agency the power to enter into PPPs with a view to transferring them to the relevant State authority, or to act as agents for State authorities for PPP procurement. The NDFA issues formal "value for money" opinions on potential projects and actively manages the procurement and delivery stages of PPP projects (Murphy, 2013).

The remit of the NDFA was extended in September 2012 to allow it to provide contract management services in respect of PPP projects. Where contract management services are provided by the NDFA, the contracting authority generally retains responsibility for certain activities, such as approval and payment of invoices, approval of changes to the project agreement, issuing warning or termination notices to the PPP company, determination of benchmarking and market testing of "testable" services, and approval of changes to the ownership structure of the PPP company (Comptroller and Auditor General, 2013, p.132).

The NDFA is considered a "dedicated PPP unit within a national treasury department" (Burger, 2009, p.82). A dedicated PPP unit will monitor and judge the affordability of a project and act as a regulatory body. It is seen as a means for preventing a "free-rider" issue where a government department may decide to go ahead with a PPP, even though it knows it

is not affordable because it knows the government will pick up the tab (Burger, 2009). Dedicated PPP units are also expected to create a centre of knowledge and expertise that can provide advice and assistance to individual departments (Akintoye and Beck, 2009). In the UK, HM Treasury has called for a stronger Treasury role where equity investment will be managed by:

> a commercially-focused central unit located in Treasury ... managed by individuals with the appropriate professional skills to oversee the investment and make commercial decisions (HM Treasury, 2012, p.7)

In this sense the Irish example is seen as more advanced than the UK approach.

Developments since 2007

In the National Development Plan (NDP) 2007 – 2013 PPPs were to account for 15% of capital investment in the areas of transport, justice, environment, education, arts/sports/tourism and health. This was abandoned during the financial crisis and capital budgets were cut successively to 50% of what had been planned in 2007. This was even after taking into account a 25% fall in tender prices (Morgenroth, 2013). During the financial crisis, 24 PPP projects were put on hold or cancelled, including Metro North, Dart Underground, and the Dublin Waste to Energy (Poolbeg incinerator) contract (Reeves, 2013b).

The Infrastructure and Capital Investment 2012 – 16: Medium Term Exchequer Framework was launched in November 2011. A new coalition government was in place consisting of Fine Gael and the Labour Party. The framework stated that PPPs would continue to have a role to play in the delivery of key social infrastructure projects, additional schools bundles and projects in the health sector. It also stated that obtaining private funding had been challenging in recent years. However, where the PPP model could offer value for money, the Department of Public Expenditure and Reform (DPER), in consultation with the NDFA, would continue to access private funding. DPER was established in 2011 when the new coalition government came to power. It took over the functions of public expenditure from the Department of Finance and was responsible for overseeing reform of the public sector in light of the recommendations of Ireland's memorandum of understanding of December 2010 with the European Union (EU), European Central Bank (ECB) and the International Monetary Fund (IMF), the so-called troika. The framework noted that the European Investment Bank (EIB) had been a supporter of Ireland's PPP roads programme, schools projects and transport projects (Department of Public Expenditure and Reform, 2011).

Domestic Infrastructure Stimulus Programme

The Minster for Public Expenditure and Reform, Mr. Brendan Howlin TD, announced a €2.25 billion domestic infrastructure stimulus programme on 17 July 2012 (Department of Public Expenditure and Reform, 2012). Funding came from a combination of the National Pensions Reserve Fund, the European Investment Bank/Council of Europe Bank, domestic banks and private investment sources. Further details were announced on 5 June 2013 regarding the Phase 1 of this plan which made up the larger part of the stimulus programme. The government also agreed a new pipeline of PPP projects valued at €250 million in the areas of schools, energy efficiency and road repairs. In the Minister's words:

> Although the public finances are severely constrained, it is important that we build for the future. It is absolutely vital for our long-term well-being and prosperity that children have proper school buildings in which they can learn, that our roads are safe and well-maintained and that local authority housing is as energy efficient as possible
>
> (Department of Public Expenditure and Reform, 2013)

A motivation for this Stage 3 PPP programme (Post-crisis 2012 onwards), apart from developing infrastructure, was to create jobs and stimulate the economy. This was quite different from the objectives of previous PPP programmes. Tenders for projects were required to participate in job-creating measures. The NDFA justified why it was using a PPP programme:

- There was a borrowing requirement to be "off balance sheet" in accordance with Eurostat rules so as not to affect the general government balance;
- It would enable risks such as design or construction risk and availability or demand risk to be transferred to the private sector;
- It was important in the context of the deficit reduction programme and the EU-IMF Programme of Financial Support for Ireland;
- The programme was sized so that the unitary payment obligations were affordable within budgetary arithmetic;
- It would have a multiplier effect of investment to stimulate jobs and growth;
- There would be social and community benefit provisions included; and
- It would have features incorporated to assist SMEs.

(National Development Finance Agency, 2013)

To instil confidence and to maximise market participation, new measures were introduced such as reducing the timeframe from 21 months to 15 months for preparing PPP projects to the market through to contract award, the reimbursement of bid costs to unsuccessful bidders (agreed by the government in 2012 for Phase 1), a fixed amount to be paid in compensation for cancellation, a compliant tender fee to be paid to a maximum of three shortlisted tenders, and performance bonds to be capped at 12.5% (Department of Public Expenditure and Reform, 2013). The then Minister of State for Public Service Reform and the Office of Public Works, Mr Brian Hayes, TD also stated that the PPP process would be streamlined, with less documentation, meetings and specimen designs drawn up prior to the bidding process (Hayes, 2013).

Similarities can be seen between the announcements in Ireland and the reform measures of PF2 introduced in the UK by HM Treasury in December 2012. Among the reforms were plans to accelerate delivery in order that the tendering phase of PF2 would be no longer than 18 months, government discretion to make a contribution to the failed bid costs of shortlisted bidders, and steps to reduce the amount of design work and resulting costs to be carried out (HM Treasury, 2012).

2.3.3 Oversight of PPPs by the Comptroller and Auditor General and the Committee of Public Accounts

The Committee of Public Accounts reported on PPP in Ireland in 2007. In the report it referred to PPP in Victoria, Australia where, after the PPP contract is signed, it is put on the "Partnerships Victoria" website, although some information can be redacted if it is assessed to be "commercial in confidence" (Dáil Éireann, 2007, p.17). A review by this researcher of the website in 2017 indicates that each PPP project has a project summary which indicates the value for money analysis of each proposal received from the private sector and compared with state managed delivery[3]. The component elements of the public sector comparator are given along with details of additional value for money benefits and a public interest test. Contracts are also posted on the website shortly after signature.

In the report commissioned by the Committee of Public Accounts in 2007, it was recommended that Ireland adopt a similar approach to allow for "ongoing assessment of a project and provide reassurance to the public" (Dáil Éireann, 2007, p.24). The report also referred to Victoria, Australia where the onus of proof of "commercial in confidence" is on the tenderer who must show that it will adversely affect their business. The Committee of

[3] http://www.dtf.vic.gov.au/Infrastructure-Delivery/Public-private-partnerships/Projects

Public Accounts recommended that this be adopted in Ireland. The report also noted that in Victoria, Australia the parliamentary committee and the Auditor General should have authority to report "commercial in confidence material" when it is in the public interest for the information to be revealed (p.16). However, despite these recommendations the Committee of Public Accounts is still asking questions regarding PPPs and commercial sensitivity (Dáil Éireann, 2018).

Hodge and Greve (2007) state that PPPs are an attractive policy for governments that are eager to please markets, but they also state that there is a lack of independent evaluators; poor evaluation rigour; poor definition of how PPP is judged; evaluations by auditors general who, in most jurisdictions, cannot question government policy; inaccurate discount rates of time-value-of-money estimates of net benefit; inaccurate estimates of risk transfers from the public to the private sector; and predicted benefits being estimated at an early stage of a long-term contract, at a time when optimism and political sensitivity are both high. Some of these issues were highlighted in the Comptroller and Auditor General's (C&AG) value for money report (No. 48) of the Grouped Schools Pilot Project (Comptroller and Auditor General, 2004) and by subsequent C&AG reports and reviews by the Committee of Public Accounts.

The value for money report (No. 48) of the Grouped Schools Pilot Partnership Project (Comptroller and Auditor General, 2004) was the first of the PPP pilot projects to reach the contract stage. The report stated:

> The cost comparison exercise — completed in September 2001 — concluded that procuring and running the schools through the proposed PPP arrangement would result in a saving of around 6% compared to procuring and running the schools conventionally. However, the analysis contained errors in relation to the timing and discounting of payments and overestimated the residual value of the school buildings at the end of 25 years.
>
> (Comptroller and Auditor General, 2004, p.11)

After correcting the analysis for these factors, the report suggested that the Department of Education and Science should have concluded that adopting the PPP approach to procurement was likely to be in the region of 13% to 19% more expensive than conventional procurement and that the deal involved relatively little transfer of risk to Jarvis, the consortium tasked with this project. The report stated that although risks were "appropriately retained" by the public sector, the extent of risk transferred to the private sector was "limited", valued at 6% of the overall estimated cost of procuring the schools by conventional means. The report concluded that it was too early to conduct a comprehensive comparison of the

economy, efficiency and effectiveness of the group of schools built under PPP with a similar group built under the conventional route.

The Committee of Public Accounts met on several occasions in late 2012 and 2013 to review PPP commitments under chapter 6 of the C&AG Report on the Accounts of the Public Services 2011 (Comptroller and Auditor General, 2012). However, at mid-2018 the committee has not carried out any in-depth value for money analysis of PPPs. These reviews have highlighted ongoing problems with PPP such as issues regarding value for money calculations, risk sharing, unforeseen costs and problems with traffic volumes.

The C&AG in the Report on the Accounts of the Public Services 2011 (Comptroller and Auditor General, 2012) carried out an analysis of the financial commitments under PPP, specifically a review of value for money in water services (Department of Environment, Heritage and Local Government, 2010) and the impact of risk sharing in roads projects. The report stated that PPP procurement should be employed only where it is clearly established that it provides best value for money overall. This report stated that in the Department of the Environment, Community and Local Government (DoECLG), formerly the Department of Environment, Heritage and Local Government, the government department responsible for water and waste water (W&WW) PPPs, when compared with traditionally procured contracts, PPP design, build and operate (DBO) represented average savings in the range of 10% to 20% for project capital costs and 5% to 10% for operational costs, depending on the scale of the treatment plant. The C&AG's report (Comptroller and Auditor General, 2012, p.81) also stated that under PPP, the transfer of all construction stage risks, other than archaeology, is made to the contractor, which was not the case under the traditional procurement approach. Under the traditional approach, the employer, that is, the local authority, carried virtually all risks associated with the contract.

Reeves (2013a) found that the DoECLG had a stated preference for the PPP model in the water services sector which was at odds with the official guidelines on PPP procurement which require that VFM is demonstrated in advance of the PPP model being adopted. He found that in the case of a replacement waste water treatment plant along with ancillary facilities, a consultation period allowed stakeholders to review costs, and the subsequent report and recommendation to the DoECLG estimated that the whole-life costs to be 2.3% lower under traditional procurement. The DoECLG re-worked the VFM assessment and concluded that the final adjusted cost differential amounted to under 1% in favour of traditional procurement. Nonetheless, the department made a final decision to proceed with procurement under the PPP approach (Reeves, 2013a).

Despite the C&AG report stating "appropriate sharing of project risks is a requirement if PPP projects are to deliver value for money" (Comptroller and Auditor General, 2012, p.90), there were issues with risk sharing in the case of the Clonee-Kells (M3) and Limerick Tunnel PPPs (Comptroller and Auditor General, 2012). The contracts provided for traffic related guaranteed payment mechanisms whereby the National Roads Authority (NRA), now merged with the Railway Procurement Agency (RPA) and called Transport Infrastructure Ireland (TII), was obliged to make payments to the PPP company if traffic fell below a certain level. In both cases the shortfalls in traffic volumes relative to the guaranteed thresholds in 2010 and 2011 were significant. The NRA estimated the guaranteed related amount payable in 2012 at €6.7 million. The C&AG report stated that, based on the assumption that traffic on both routes would grow at an annual average of 2.5% a year, the State would continue to make guaranteed payments to the Clonee-Kells PPP company until 2025 (Comptroller and Auditor General, 2012, p.83). This led to the following recommendations:

> VFM appraisals are carried out for all proposed major public investments and a PPP cannot proceed unless it is found likely to deliver better value than traditional procurement. However, few value for money reviews of PPP projects have been published

and

> evaluations of the value for money expected to be achieved through procurement of projects by means of PPP should be published (Comptroller and Auditor General, 2012, p.90)

However, despite the C&AG recommendations, this does not appear to have happened as the C&AG's report in 2013 acknowledged that the NDFA had carried out value for money testing on the third schools bundle project but the results of the final deal had not been published. It was argued that publishing results could compromise the NDFA's negotiating strategy and be detrimental to achieving optimal outcomes for other projects currently being procured (Comptroller and Auditor General, 2013). As a result of this, value for money cannot be assessed in the public domain because of commercial sensitivity issues.

2.4 Research themes and question

The examination of the literature in the previous sections draws attention to the motivations for the adoption of PPP in Ireland as well as the ongoing reliance on this procurement approach. This is further discussed in chapter 4. There have been a number of academic studies carried out on the experience of PPP in Ireland. For example, Hurst and

Reeves (2004), Reeves (2008) and Hearne (2011) have examined the experience with PPP in the Irish schools sector; Petersen (2011) has focused on policy-making and regulation of PPP in Ireland; Burke and Demirag (2015) have examined demand risk on Irish PPP road projects; Reeves et al. (2015) have analysed the length of tendering periods for PPP contracts in Ireland; and Reeves and Palcic (2017) have examined the impact of the financial crisis on PPP in Ireland.

However, there is a gap in the literature regarding the motivations for the continued use of PPP post-financial crisis. It is important to know whether the motivations for the continued use of PPP in Ireland have remained the same or are now different and whether its continued use is voluntary or coercive, as this will influence the sustainability of this policy. This study will investigate this issue. This is expressed in the following research question:

RQ 1: What are the reasons for the adoption of the PPP policy and its continued use in Ireland?

Research has found that there is limited availability of information on the public sector benchmark (PSB) in Ireland which makes public scrutiny of PPPs very difficult (Reeves, 2013a). Even though there have been calls for transparency and the public availability of all PPP contracts (Khadaroo, 2008; Boardman and Vining, 2012; Vining and Boardman, 2008a), in Ireland VFM tests and PPP contracts are not published and there is limited evidence on management of contracts (Reeves, 2013a).

Studies have explored the PFI decision-making process and have raised concerns over accountability and VFM, the implications of risk transfer on VFM and "the difficulties and subjectivities involved in preparing the PSB" (Khadaroo, 2008, p.1325). There has been a lot of effort in the UK put into developing ex-ante VFM criteria (Broadbent and Laughlin, 2004) but less attention has been devoted to considering VFM ex-post to assess if outcomes have been achieved (Broadbent and Laughlin 2004; Khadaroo, 2008, Edwards and Shaoul, 2003b). It is considered to be a gap in the knowledge and practice (Andon, 2012). In particular the Irish PPP experience has received limited examination in academic literature (Reeves, 2013a).

A number of case studies of PPP practice in Ireland, outlined in *2.3.3 Oversight of PPPs by the Comptroller and Auditor General and the Committee of Public Accounts* have been examined by the C&AG and discussed in the Committee of Public Accounts, and the results have been disappointing. The analysis indicates that the public sector has failed in the design of contracts, failed to ensure sufficient competition for contracts, failed to specify and allocate risks adequately and failed to monitor and enforce contracts adequately. A major

theme arising from the literature is the need to establish a model of public sector procurement which includes the establishment of fundamental objectives of public service delivery to generate competition, monitor and enforce contracts, and ensure accountability is called for (Reeves, 2006). The failures of PPP and recommendations for future PPP mentioned by Reeves (2006) merit research into the establishment of a framework for the involvement of the private sector in PPP in Ireland.

The examination of the academic literature, key reports and oversight of PPP have identified themes which warrant further research. These are the evaluation of VFM, the transparency of the policy, and the public availability of PPP reviews. These themes are further discussed further in chapter 3.

2.5 Conclusion

Since the foundation of the State, Ireland has had private sector involvement in the delivery of services and infrastructure projects. This involvement was formalised during the 28th Dáil (1997 – 2002) under the economic liberalisation policies of the then Minister for Finance, Mr. Charlie McCreevy, TD. There was a highly visible political commitment at the time to the PPP approach with the backing of the Taoiseach, the Minister for Finance and senior Ministers, although there was no overriding imperative to do so.

PPP was introduced after the publication of the Farrell Grant Sparks et al. report (1998). The reasons for its introduction brought about by the infrastructure deficit through underfunding, in tandem with rapid economic expansion and fiscal constraints imposed by the Maastricht Treaty convergence criteria. Other reasons for the introduction of PPP given were possible efficiency gains and expertise not available in the public sector, as well as political expediency where PPP offered early project infrastructure delivery and the movement of capital expenditure off-balance sheet.

The National Development Plan 2007 – 2013 reaffirmed the government's commitment to PPP, but some projects were cancelled as a result of the economic downturn. The coalition government of 2011 introduced the Infrastructure and Capital Investment 2012 – 16: Medium Term Exchequer Framework which stated that PPP had a role to play in the delivery of key social infrastructure projects, such as schools and projects in the health sector. PPPs were affected by the financial crisis and the coalition government introduced the domestic infrastructure stimulus programme, announced in 2012, part of which was to be delivered through PPP, as an attempt to stimulate the economy, reduce the infrastructure

deficit and create employment. This programme was followed by a number of new PPP measures announced in 2013 aimed at building PPP capacity.

In summary, this examination of the literature has explored the motivations for the introduction of PPP in Ireland but this does not explain the reasons for its ongoing use. Therefore, the first research question was identified in this chapter:

RQ 1: What are the reasons for the adoption of the PPP policy and its continued use in Ireland?

The C&AG carried out an evaluation of PPPs in the pilot schools project and identified issues with risk sharing in two road transport PPPs, where the state is obliged to make guaranteed payments to the PPP companies involved if certain conditions fail to be met. The C&AG has stated that PPP procurement should be employed only where it is clearly established that it provides best value for money overall. However, Reeves (2013a) cites one case where the traditional procurement approach is cheaper but the PPP was proceeded with. The C&AG has also stated that the NDFA has carried out value for money testing but has not published the results because of commercial sensitivity issues. This examination of the academic literature, key reports and oversight of PPP has identified concerns regarding the evaluation of VFM, the transparency of the policy, and the public availability of PPP reviews.

In the absence of value for money audits on current PPP projects, we cannot judge whether these projects have achieved the objectives initially set out and whether the PPP approach is the appropriate method in which to involve private investment in the delivery of public services. These themes are further discussed in the next chapter which will also identify two additional research questions.

Chapter 3 – Literature Review: The Study of Policy Transfer theory and Institutional theory

3.1 Introduction

This chapter outlines the theoretical framework of this study which was utilised to inform the pilot study (chapter 4) and the extended study conducted in 2016 (chapters 5 and 6). Section 3.2 examines the literature on policy transfer theory as a means of exploring how PPP policy came to be adopted in Ireland and examines whether the policy was transferred voluntarily or coercively. Policy transfer theory is also used to explore whether lessons learnt have changed or enhanced PPP policy in Ireland and whether this has led to more successful outcomes. Section 3.3 reviews the literature on institutional theory to explore how the success and sustainability of PPP can be understood. Section 3.4 uses the foregoing to identify the remaining research questions of this study.

3.2 Overview of Policy Transfer theory literature

The sharing of policies across states and nations has brought about a transfer of policies which has been described as lesson drawing, policy band-wagoning, policy borrowing, policy shopping, systematically pinching ideas, external inducement and direct coercive transfer (Stone, 2001). These labels relate to "action-oriented" concepts where the transfer results from a rational decision made by the policy-maker (Stone, 2001, p.5) having assessed the feasibility of an idea or the advancement of a problem (May, 1992). In general the term "policy diffusion" describes the adoption of a practice, programme, policy (Stone, 2001, p.4) or innovation (Rogers, 2010) which is communicated (Rogers, 2010), or spreads, gradually (Stone, 2001) through certain channels (Rogers, 2010) or geographically (Stone, 2001) among members of a social system (Rogers, 2010) and over time (Rogers, 2010; Stone, 2001). Westney (1986, p.185) refers to "transfer" in discussing "imitations/innovations" of foreign experiences. Wolman (1992) discusses policy transfer in the context of urban policies transferred between the US and UK.

The contemporary study of policy transfer draws on policy diffusion studies, a sub-set of the comparative politics literature (Dolowitz and Marsh, 1996; Evans, 2009a) which emerged in the 1990s (Benson, 2009). Not all academics agree on whether "policy transfer" is actually the most adequate term to use. Some authors use "policy borrowing", "policy mobilities", "policy mimesis", "imitation" or "reproduction of policy in another context" but

these terms are not necessarily better or worse than "policy transfer" (Dussauge-Laguna, 2012, p.317).

Policy transfer can be defined as "a process in which knowledge about policies, administrative arrangements, institutions etc in one time and/or place is used in the development of policies, administrative arrangements and institutions in another time and/or place" (Dolowitz and Marsh, 1996, p.344). Policy transfer involves "cross-cultural transfer of knowledge about institutions, policies or delivery systems" (Evans, 2009b, p.238) and thus causes organisations to mimic others (Dolowitz and Marsh, 1996). It can also increase the effectiveness of government operations (Marsh and Sharman, 2009) and help organisations gain legitimacy (Connolly et al., 2009). Early transfer studies focused on voluntary transfer (Dolowitz and Marsh, 1996) but research found that cross-national policy transfer was not necessarily "rational, mechanical or automatic" as policy-makers operated within "bounded" contexts as a result of a lack of resources, ambiguous goals and a lack of understanding of imported policies (Dolowitz and Medearis, 2009, p.686), which led to the distinction of voluntary and coercive transfer (Dolowtiz and Marsh, 1996).

Voluntary transfer can occur where there is dissatisfaction with the *status quo* and a perception, either by the government or the public, of policy failure. Coercive transfer can be direct or indirect. Direct coercive transfer occurs when one government or organisation forces another to adopt a policy. The direct imposition of policy transfer on one country by another is uncommon. However, supra-national institutions, such as the IMF and EU, have been said to conduct coercive policy transfer through their policies. Indirect coercive transfer occurs when the role of externalities resulting from interdependence pushes governments to work together to solve common problems (Dolowitz and Marsh, 1996). International organisations such as the EU, IMF and World Bank advocate, and at times enforce, similar policies across diverse countries (Dolowitz and Marsh, 2000). A country can also be indirectly pushed towards policy transfer if political actors perceive it as falling behind neighbours or competitors (Keating et al., 2012). Similarities in policy between countries can be explained by policy transfer and learning but also because similar conditions exist and similar policies may be developed concurrently (Keating et al., 2012). Even if this is so, policy learning is possible (Keating et al., 2012).

When the international community defines a problem in a particular way and a common solution has been introduced in a number of nations, those nations not adopting this definition or solution face increasing pressure to join the international community by implementing similar programmes or policies (Dolowitz and Marsh, 1996). The literature on

policy transfer tends to be "process oriented, focusing on how, when, and why adopters use diffused information rather than on networks or patterns of diffusion" (Mossberger and Wolman, 2003, p.429), and the Dolowitz and Marsh (1996 and 2000) framework reflects this.

3.2.1 Policy Transfer theory: Dolowitz and Marsh (1996 and 2000) framework

Dolowitz and Marsh (1996) summarised a general framework of concepts, including "policy diffusion, policy convergence, policy learning and lesson drawing under the umbrella heading of policy transfer" (Evans, 2009a, p.363). Policy transfer is therefore used as a common term to include "claims about the nature of policy development" such as lesson drawing, policy diffusion and policy convergence (Evans, 2009a, p.364). The Dolowitz and Marsh (1996) framework incorporates all of these terms and is said to be useful for planning research questions and examining the process of policy transfer (Evans, 2009a).

The framework allows a view to be taken on why and where the transfer takes place, who is involved, and how to demonstrate that transfer has or has not been successful. It was further added to by Dolowitz and Marsh in 2000. Dolowitz and Marsh have invited others to develop the framework further and assess it (Evans, 2009a), and O'Dolan and Rye (2012) adapted the framework for their study of the transfer of the "Active Access" policy which aims to encourage cycling and walking for short trips. Table 3.1 shows the evolution from the questions asked by Dolowitz and Marsh in 1996 and 2000 to O'Dolan and Rye's (2012) utilisation of the framework for their study.

Table 3.1: Policy Transfer Questions

Dolowitz and Marsh (1996)	**Dolowitz and Marsh (2000)**	**O'Dolan and Rye (2012)**
Who transfers policy?	Who is involved in the policy transfer process?	Who is involved in the policy transfer process?
What is transferred?	What is transferred?	What policies are transferred?
Why engage in policy transfer?		Why do actors engage in policy transfer?
From where are lessons drawn?	From where are lessons drawn?	From where are the lessons drawn?
Are there different degrees of transfer?	What is the degree of policy transfer?	What are the different degrees of transfer?
What factors constrain policy transfer?	What are the constraints on transfer?	What restricts or facilitates the policy transfer process?
What are the problems with the literature?	How does policy transfer lead to policy failure?	How is the process of policy transfer related to policy "success" or "failure"?

Each of these questions is now discussed using the O'Dolan and Rye (2012) version of the questions:

Who is involved in the policy transfer process?

This literature identifies different categories of actors involved in policy transfer such as "elected officials, political parties, bureaucrats/civil servants, pressure groups, policy entrepreneurs/experts and supra-national institutions" (Dolowitz and Marsh, 1996, p.345). Actors are defined as individuals or collectives, from groups to countries, and the literature describes some of them as seeking to influence public policy (Sabatier and Weible, 2014). Other categories of actors include "transnational corporations, think tanks, non-governmental institutions, consultants" (Dolowitz and Marsh, 2000, p.10), and "knowledge institutions, academicians and other experts and pressure groups" (Evans, 2009a, p.244). Another categorisation distinguishes between "state" and "non-state" actors, non-state being described as interest groups, NGOs, think tanks, consultant firms, law firms and banks (Stone, 2004, p.2). Other research places importance upon "epistemic communities or policy networks" (Holden, 2009, p.315) defined as "experts from inside and outside government interacting to spread ideas" (Dolowitz and Marsh, 1996, p.346).

The literature discusses the role of the private sector in policy transfer, and in particular, the use of consulting firms by governments to "reinvent" themselves when implementing new public management ideas and advocating the adoption of "a more managerial approach in government". This has been described as "a global fashion-setting network of management consulting firms" (Stone, 2001, p.27). Consultancy firms are regarded as a transferor of policy ideas from one place to another (Stone, 2001). Large consulting firms such as PwC, KPMG or Arthur Andersen are establishing "government consulting divisions" in their organisations, producing policy relevant research and liaising with public servants (Stone, 2001, p.27). Ikenberry (1990) writes that the role of international institutions such as the IMF and the World Bank have resulted in the transfer of private sector policies. A "coalition" of groups, including both the public sector and the private sector, sometimes emerges around a strategy that includes privatisation, and this coalition collaborates with external agencies. These external actors can thus help to "bolster national coalitions that favour privatisation and public sector reform" (Holden, 2009, p.315). Other references in the literature refer to "global financial institutions, international organisations and supra-national institutions" (Evans, 2009a, p.244).

Policy-makers are increasingly relying on the advice of consultants for "best practice" expertise in the development of new programs, policies and institutional structures (Dolowitz and Marsh, 2000, p.10), particularly when international organisations are involved, which often recommend particular consultants be hired. The recommendations by consultants used

by, for example, the IMF on policy for recipient nations may be voluntary or coercive (Dolowitz and Marsh, 2000).

There has been little examination in the literature of the roles of actors, in particular private actors, in policy transfer. Also there has been little examination of the beneficiaries of coercive transfer and they are not often identified (Holden, 2009).

What policies are transferred?

Policy goals, structure and content, policy instruments or administrative techniques, institutions (Dolowitz and Marsh, 1996), ideology; ideas, attitudes and concepts, policies, and lessons (Dolowitz and Marsh, 1996; Stone, 2004) can be all transferred. Lessons can be negative as well as positive and countries may make a decision not to copy some policies, believing that they may be limiting in their current form (Dolowitz and Marsh, 1996). Earlier studies concentrated on "hard transfer of policy instruments, institutions and programmes between governments" (Benson and Jordan, 2011, p.370) but there is also discussion in the literature of "soft" forms of policy transfer such as the spread of norms and knowledge (Stone, 2004, p.3), particularly by "non-state actors in transnational advocacy networks" endeavouring to influence policy agendas (Stone, 2004, p.17). Research using the soft forms of policy transfer are now said to be pushing the boundaries of the policy transfer concept (Benson and Jordan, 2011).

Why do actors engage in policy transfer?

Lessons are used by supporters and objectors of policies to gain advantage and legitimacy in the pursuit of having their ideas accepted (Dolowitz and Marsh, 1996). The literature has called for research to examine why certain types of transfer appear in some settings and not in others (Benson and Jordan, 2011) and this may be down to the type of policy transfer which may take place. The literature distinguishes between voluntary transfer, negotiated transfer and direct coercive transfer (Dolowitz and Marsh, 1996; Evans, 2009a) and indirect coercive transfer (Dolowitz and Marsh, 1996).

Voluntary transfer occurs where there is some form of dissatisfaction or problem with the *status quo*; where there is a perception either by the government or the public of policy failure; or where there is a new agenda brought about by a new minister or a change in government (Dolowitz and Marsh, 1996; Evans, 2009a).

Negotiated policy transfer refers to a process in which governments are compelled by, for example, an influential donor to introduce policy change to secure grants or loans. If one donor party has influence over the recipient party, however, it may be seen as a form of

coercive activity (Evans, 2009a) of which two types have been identified (1) direct coercive transfer and (2) indirect coercive transfer (Dolowitz and Marsh, 1996).

Direct coercive transfer relates to situations where one government coerces another to adopt a policy (Holden, 2009; Dolowitz and Marsh, 1996). While one country directly imposing policy transfer on another is not common (Dolowitz and Marsh, 1996) a powerful country can encourage a weaker country to adopt a policy by threat of action if it does not do so (Sabatier and Weible, 2014) or supra-national institutions can often engage in coercive policy transfer (Dolowitz and Marsh, 1996). For example, the IMF will demand particular economic policies that must be agreed by the recipient if a loan is to be granted (Dolowitz and Marsh, 1996), the World Bank can require adoption of polices as a precondition to financial aid (Sabatier and Weible, 2014) and the EU can force policy transfer upon member states (Dolowitz and Marsh, 1996).

Indirect coercive transfer arises from the role of externalities which result from interdependence, which encourage governments to cooperate to resolve common problems (Dolowitz and Marsh, 1996). International organisations such as the EU, IMF and World Bank "advocate and at times enforce similar policies across diverse countries" (Dolowitz and Marsh, 2000, p.7). A country can also be indirectly pushed towards policy transfer if there is a perception, correct or incorrect, that it is lagging behind the adoption of policies made by a neighbouring country or a competitor (Dolowitz and Marsh, 1996). The emergence of an international consensus on a particular problem or solution to a problem may become a form of indirect coercive transfer, when nations feel compelled to introduce a policy to join the international consensus (Dolowitz and Marsh, 1996).

One concern of the literature is that if policy is imposed or transferred as a result of coercion or mimicry it may be "ineffective and dysfunctional" (Marsh and Sharman, 2009, p.282). Governments are often motivated to adopt policies that offer legitimacy, rather than learning from the experiences of other countries and adopting policies that have the desired effects (Marsh and Sharman, 2009).

From where are the lessons drawn?

When transfer takes place, lessons can be drawn from another country's experiences on what worked and on what not to repeat, thus saving time and resources (Dolowitz and Marsh, 1996). It is common, however, for governments and agents to transfer policies from one country to another (Dolowitz and Marsh, 1996) and there is a "natural tendency" to look abroad in making domestic policy decisions (Bennett, 1991, p.220). Research has shown that there are borrowers and lenders and that these roles seldom change. Countries classified as

borrowers act as mentors for other countries and lenders draw lessons (Dolowitz and Marsh, 2000). Dolowitz and Marsh (2000) adapted their original framework to describe three levels of governance from where lesson can be drawn: the international, the national and the local. This complicates the simple borrowers and lenders dichotomy.

What are the different degrees of transfer?

There are a range of options on how to incorporate lessons into a political system and Dolowitz and Marsh (1996, p.351) identify five: copying, emulation, hybridization, synthesis and inspiration. Copying occurs when a country adopts a policy used elsewhere without making any changes (Dolowitz and Marsh, 1996). Emulation occurs when a country does not copy a policy in totality but accepts that a policy elsewhere is the best standard (Dolowitz and Marsh, 1996). Hybridization and synthesis involve combining elements of programmes found in two or more countries and using them "to develop a policy best suited to the emulator" (Dolowitz and Marsh, 1996, p.351). The literature also distinguishes between policy copying, where the policy is almost completely copied, and policy adaption (Birrell, 2012). Studying problems and policies adopted by other countries can motivate and suggest solutions to problems arising at home (Dolowtiz and Marsh, 1996). Dolowitz and Marsh (2000, p.13) later refined the degrees of transfer to include copying, emulation, combinations and inspirations and point out that it is not an "all or nothing process". Transfer will vary depending on the particular case and who is involved in it. For example, politicians tend to look for "quick-fix" solutions and bureaucrats are more interested in "mixtures" (Dolowitz and Marsh, 2000, p.13). Other forms of policy mobility have since been identified to include "non-transfer", "failed transfer" and the transfer of "negative lessons" (Benson and Jordan, 2011, p.371).

The literature has also identified factors which influence the degree of policy copying. Influencing factors include: weak policy-making capacity of the civil service, parliamentary committees and other bodies, over-reliance on management consultants to produce policy analysis and lack of research institutes, policy networks and discussion forums; culture of conservatism and lack of appetite for change in public sector reforms; emphasis on cost cutting and reductions in public expenditure and lack of motivation for adopting new methods of service delivery and reforms; political disagreements on public sector reform and ensuing impasses result in policies being adopted based on political advantage being won; lack of rational decision-making; and lack of political consensus on major policy issues (Birrell, 2012).

What restricts or facilitates the policy transfer process?

The literature has highlighted constraints to policy transfer. Constraints apply to the wholesale adoption of past policies which can impinge or constrain the adoption of potential policies. Potential policies can also conflict with the dominant political ideology of the recipient country. Bureaucratic size and efficiency of the recipient country, implementation costs and language can also militate against transfer (Dolowitz and Marsh, 1996). The transfer of policies from one country to another may be constrained by cultural differences and the related high costs of adjusting policies (Benson and Jordan, 2011). Another constraint to policy transfer is the lack of trust in the source of a new idea and institutional differences that may exist (Rye et al., 2011). Constraints may come into existence at different stages of the policy transfer, for example, "cognitive" obstacles may occur at the pre-decision phase and "environmental" obstacles may occur during the process of transfer (Evans, 2009a, p.246).

How is the process of policy transfer related to policy "success" or "failure"?

Dolowitz and Marsh (2000, p.17) added the question of success to their framework and acknowledged that there is a problem establishing what constitutes "success" and "failure" in policy transfer. They restrict themselves to examining policy transfer success as the extent to which it achieves the objectives of government or how success is evaluated by key actors involved in the policy area (Dolowitz and Marsh, 2000). The literature has highlighted a number of concerns about measuring the success of policy transfer. There is a presumption that because a policy was a success elsewhere, it will be transferred successfully to the recipient country. It has been argued that consideration of the perspective from which success is to be assessed among "multiple stakeholders" is required (Marsh and Sharman, 2009, p.284). Consideration is also required as to when success is assessed. Should it concentrate on evaluation after the project end and is there a generally accepted framework for doing this (O'Dolan and Rye, 2012)? Consideration should also be given to whether lessons were learnt. For example, was there an attempt to learn lessons by examining policies adopted elsewhere to see if they could be improved on or whether they were appropriate for transfer (Birrell, 2012)?

In this research, policy transfer theory will provide a means of exploring how PPP policy came to be adopted in Ireland. It will establish whether the policy transferred was conducted in a voluntary manner or a coercive manner. Policy transfer theory will also provide a means of exploring whether the lessons learned changed or enhanced the PPP policy in Ireland and whether this led to a more successful outcome. This last element is discussed further in the next section.

3.3 An Overview of Institutional theory literature

Organisations and also governments operate in an institutional environment which influences their actions (Matos-Castaño et al., 2014), and institutional theory can help explain why governments are so similar (Connolly et al., 2009). Institutional theories assume that pressure to conform to a set of expectations is exercised by external and internal forces, thereby gaining organisational legitimacy and securing "access to resources and long-term survival" (Brignall and Modell, 2000, p.288). Organisational structure, policies and procedures stem from social expectations and "myth" about what is socially and economically acceptable such as private sector efficiency (Khadaroo, 2005, p.72) which are rationalised and gain legitimacy (DiMaggio and Powell, 1983; Brignall and Modell, 2000). Under the New Public Management (NPM) reforms movement, private sector management techniques such as Best Value, Private Finance Initiative (PFI), Resource Accounting and Resource Budgeting were institutionalised in the UK's public sector (Khadaroo, 2005) as a way of introducing practices similar to the private sector (Broadbent and Laughlin, 2005). NPM reforms, which also include PPP, encourage new institutional arrangements which allow participation from the public sector and private sector, and are used to resolve complex public policy issues which may arise (Nel, 2014).

PFI, which had been introduced by the Tories in the UK in 1992, took off when New Labour came to power in 1997 with a new emphasis on partnerships between sectors as a means of gaining private sector expertise (Broadbent and Laughlin, 2005). PFI was seen as a way of modernising government, with ministers being keen to introduce what they saw as entrepreneurial private sector values into public services (Weaver, 2003). The adoption of PFI by New Labour gave legitimacy to it and to the continuation and development of its use (Broadbent and Laughlin, 2005).

Institutional theory examines how structures including procedures, rules, schemas and routines become established and are accepted over "space and time" (Matos-Castaño et al., 2012, p.4). Government projects can be adopted without a thorough value for money analysis prior to adoption because they are in vogue (Cohen and Eimicke, 2001). Perhaps this is to gain legitimacy and a desire to conform rather than "rational decision-making" (Connelly et al., 2009, p.6). It has been found that governments often adopt new practices, for example, PPPs, to conform and are then forced to keep up the appearance that these mythical solutions actually work (Connelly et al., 2009).

3.3.1 Institutional Isomorphism

DiMaggio and Powell (1983) use the term "isomorphism" to explain the tendency for public and private organisations to adopt similar rules and routines and they describe three types of institutional isomorphism – coercive, mimetic and normative. In the context of institutional isomorphism, "coercion" can explain the way in which PPPs were introduced in the UK (Connolly et al., 2009), where a decision not to use the PPP option meant that the project might not go ahead (Newberry, 2004). The manner in which PPPs were introduced into Ireland was likely to have been "mimicry", looking to see what the "closest neighbour" had done and adopting it to gain legitimacy, combined with "normative" pressures where elements of the "accounting profession interpreted the accounting rules in a manner that made the use of PPPs attractive" (Connolly et al., 2009, p.14). For example, the Dutch PPP expertise centre, part of the Ministry of Finance, borrowed from the UK PFI model, and this is a form of isomorphism (Klijn, 2009). Accordingly, the UK PFI model was seen as a first "PPP enabling-field" and an example for other countries (Jooste et al. 2011, p.3). It should be pointed out that mimetic isomorphism is not a given, as Scotland did not introduce PFI in the form England and Wales did, and its Scottish Future Trust is a significant divergence in the area (Asenova et al., 2010). Research into the adoption of PPP policy in British Columbia (Canada), Victoria (Australia) and South Africa show that the PPP model was adapted and modified beyond the isomorphic "one size fits all" approach by diffusion carriers such as relational networks, local advocates, consultants, multilateral and international development agencies, and artefacts (Jooste et al., 2011, p.2). In other words, policy transfer with institutional change occurred.

Research into the impact of institutional structures on the implementation of PPP policies goes beyond notions of transfer in that is does not assume that transplanted policies would be automatically successful. PPPs require a variety of new types of institutional capacity (Jooste et al., 2009) and research has also shown how shortcomings in the institutional setting can lead to problems with the performance of PPPs and a lack of transparency and regulatory safeguards (Matos-Castaño et al., 2014). Creating an enabling environment for PPPs requires a combination of institutional creation and institutional change, a form of institutional isomorphism. In some cases governments borrowed PFI policy from other countries but failed to change the institutional environment (Matos-Castaño et al., 2014), or borrowed policy in a fragmented nature, leading to uncoordinated policies (Johnston, 2010) with weak overall policy performance. There is no one-size-fits-all institutional framework. Institutional frameworks are often path-dependent, limited by

decisions made in the past, and relates to the ability of policy-makers to adapt institutional forms, thus creating legitimacy, trust and capacity in the adoption of PPPs (Matos-Castaño et al. 2014). The first generation of PPPs in the Netherlands of the early 1990s suffered from financial and structural problems. The second generation of PPPs came about after the government assessed international experiences of PPP, evaluated this and assessed conditions necessary for a successful partnership leading to political and public buy-in (Matos-Castaño et al., 2014). Lessons were learned and institutional change came about with the development of PPP policy, guidelines and procedures.

3.3.2 Measuring PPP success and sustainability

An examination of the literature shows an evolution in how PPP success is assessed. Before PPP became popular, the focus was on the success of privatisation projects. For example, Durchslag et al. (1994) recommended a balanced partnership between government and investors and a strong legal and regulatory structure to ensure success for infrastructure privatisation projects. With the implementation of PPP, attempts to assess PPP success have evolved from recommendations on what is key to PPP success. This has ranged from efforts to identify critical success factors (CSFs) for PPP success to creating a framework to assess PPP success. More recently there has been a shift in the literature to discussing the factors necessary for the sustainability of PPPs. This is illustrated in the examination of the literature in this section.

When PPPs were first implemented the literature made recommendations on what is key to PPP success. For example, Kumaraswamy and Zhang (2001) wrote that implementing build-operate-transfer (BOT) type schemes, a form of PPP, will not be successful unless institutional change takes place in the form of governmental support, adequate legal framework, the right political and commercial environment and minimal guarantees to maintain a balanced risk-return structure (Kumaraswamy and Zhang, 2001). It was emphasised that even if governments do provide these supports, it is not a guarantee of success and a balanced effort from both the public and private sector is essential to achieving successful outcomes (Kumaraswamy and Zhang, 2001). Pongsiri (2002) recommended that it is necessary to ensure that a balance of public and private interests is reached, a clear legislative framework is implemented, and that there are clearly defined control mechanisms and accountability (Pongsiri, 2002).

As the literature on PPP expanded, authors recommended CSFs for PPP success. For example, Li et al. (2005b) examined the CSFs of PPPs in the literature and identified 18 broad

factors that determine PPP success (Li et al., 2005b). These factors were arranged into five principal groupings: effective procurement, project implementability, government guarantee, favourable economic conditions, and available financial market (Li et al., 2005b, p.467). Zhang (2005) also discussed CSFs for PPP in infrastructure development. Five CSFs were identified: favourable investment environment, appropriate risk allocation, economic viability, reliable concessionaire consortium with strong technical strength, and sound financial package (Zhang, 2005, p.5). The Canadian Council for Public Private Partnerships (CCPPP) in 2005 discussed key success factors to create a competitive environment for the procurement process. It identified the following factors: heightening public awareness, ensuring project flow, identifying the right project, the optimum procurement process, reducing costs and duration of the procurement process, having a standardised procurement process, optimum risk allocation, and a "made in Canada" model (CCPPP, 2005, p.3).

However, despite the evolution of CSFs for PPP, there has been criticism querying whether they are the best approach to assessing PPP success. For example, Jooste et al. (2009) point out that CSFs are not completely comparable to PPP programme development tasks but they do provide a significant insight into issues that need to be addressed.

The literature then evolved to recommending frameworks for assessing PPP success. For example, Deloitte (2006) recommended well-designed PPP policies, legislation and guidance, clear project objectives, appropriate risk transfer, adequate public sector capacity, ensuring value for money, and a clear pipeline of projects as assessors of PPP success. Aziz (2007) recommended the use of a PPP legal framework and implementation units, clearly defined private finance objectives, consideration of risk allocation, clearly defined value for money objectives, PPP transparency, standardisation of procedures, and the use of performance specifications (Aziz, 2007, p.920). These recommendations were expanded to create guidelines for successful implementation of PPPs such as enacting broad enabling legislation, selecting the delivery service that would provide the greatest benefits to the public or users, allowing the use and selection of the financing approach that would achieve the best value and benefits to the public, completing comprehensive analysis and articulating clearly the controversial issues such as the non-complete clauses, evaluating the various payment mechanisms and selecting the one that best achieves the government objectives, creating PPP units, and protecting the employees who would be affected from the implementation of PPPs (Aziz, 2007, p.927).

Yescombe (2007, p.22) emphasised the importance of creating political commitment, transparent procurement, adequate project preparation, appropriate risk allocation, a project

pipeline, suitable financial capacity, and experience of sponsors to assess PPP success. The United Nations Economic Commission for Europe (UNECE) in 2008 stated that PPPs require coherent policies with clear objectives and principles, adequate public sector capacity, a clear legal process, adequate risk transfer, a transparent and competitive procurement process that minuses bid costs, reduces the procurement timeframe and is free from corruption, and a PPP process that is accountable to society and environmentally sustainable.

Garvin and Bosso (2008, p.163) presented a "P3 equilibrium framework" which aimed to assess P3 programs and projects and balance the interests of the state, society, industry and market to evaluate the effectiveness of PPPs over the long term. Garvin and Bosso (2008) identified "a gap in the measurement of outcomes in PPPs as most evaluations focus on the short-term impact and outputs" (Nel, 2014, p.52). However, while the framework provided a general overview it did not provide an in-depth evaluation of elements considered in the framework or any tools necessary for measurement (Nel, 2014; Garvin and Bosso, 2008).

More recently there has been a shift in the literature to discussing the factors necessary for the sustainability of PPPs. For example, Willems and Van Dooran (2011, p.518) discussed the factors which will sustain a PPP project in the long term: risk allocation which will ensure accountability, cost-benefit analysis which is necessary for suitable project selection, social and political support, public sector knowledge and expertise, clarity in collaborations, and performance measurement of project outcomes. Dewulf et al. (2011, p.3) discussed PPP sustainability and made a link between the lack of an "enabling environment" which nurtures success and projects failing because of poor capacity and structure, lack of transparency and dispute resolution. Matos-Castaño et al. (2014) also discussed the sustainability of PPP. They recommended establishing an institutional environment which encompasses building capacity through the creation of a clear PPP policy, appropriate risk transfer, transparency and a clear legal framework, all of which will sustain PPP in the long term.

Evaluations of PPP success and sustainability concentrated on capacity building in PPPs and improving governance in PPPs (Matos-Castaño et al., 2012). More recently, however, research has evolved into examining the institutional impacts on the implementation of PPP policies in different contexts such as the role that the institutional and political context plays in the process of PPP-enabling fields (Matos-Castaño et al., 2012). For example, Delhi et al. (2010) state that conflicts can be resolved more easily where institutions are stronger, where PPPs are explicitly legitimised, where processes of awarding projects are standardised and transparent, where contractual commitments can be quickly enforced, and where the capacity to select and structure projects appropriately is high. In areas where institutions are

stronger or where the government's understanding of the role and responsibilities of PPP are greater, such conflicts may not arise at all (Delhi et al., 2010). A well-developed institutional environment will be more effective in implementing PPPs (Rui et al., 2008).

The use of language is important in this research. Earlier authors talk about the success and sustainability of PPPs in the context of institutional capacity building (Jooste et al., 2009; Van Slyke and Hammond, 2003; Dutz et al., 2006). However, other authors discuss the capabilities of the institutional environment and this is outlined in Appendix A which summarises literature examining the legitimacy, capacity and trust of PPP. For example, Delhi and Mahalingam (2012) draw on research using six case studies to identify the key capabilities that need to be present in the institutional environment for the successful governance of PPP projects. Matos-Castaño (2011), Matos-Castaño et al. (2012) and Matos-Castaño et al. (2014) discuss the main institutional capabilities necessary to ensure successful PPP programmes and project development in terms of legitimacy, capacity and trust. Verhoest et al. (2015) also use legitimacy, capacity and trust as core elements of their study on how central governments support the development of PPPs via the provision of PPP enhancing institutions. However, while Jooste et al. (2009) discuss a framework for PPP success in terms of increasing legitimacy and building capacity, instead of using "trust" they use the term "balancing interests", while Delhi et al. (2010) only discuss the importance of legitimising PPPs in the context of measuring PPP success and sustainability. Each of the terms "legitimacy", "capacity" and "trust" are now examined.

Legitimacy

Legitimacy within a social system has been defined as "a generalised perception or assumption that the actions of an entity are desirable, proper, or appropriate" (Suchman, 1995, p.574). Legitimacy is viewed as a perception that entities are functioning in a effective manner, and an entity which achieves legitimacy is likely to be more stable than one which is unable to legitimise itself, while an entity which is viewed as acting legitimately, is likely to be trusted (Kumar and Andersen, 2000). However, organisations are pressed to take actions to maintain their legitimacy and they have no guarantee that they will be successful (Kumar and Das, 2007). According to institutional theory "strategic and economic activity is embedded in a social and normative context and this context motivates economic actors to seek legitimacy or approval for their actions" (Dacin et al., 2007, p.171). The institutional environment, for example, "government, society and community groups", put pressure on organisations to validate their decisions and this then puts pressure on organisations to "increase their legitimacy" (Dacin et al., 2007, p.171).

Jooste et al. (2009) suggest that legitimacy is significant for PPPs. A successful PPP will require gaining legitimacy from the public and civic sectors as the service delivery is moving to the private sector (Jooste et al., 2009). Strategies for building legitimacy include ensuring transparency throughout the PPP process and diffusing strategic information to the public (Jooste et al., 2009; Matos-Castaño et al., 2012; Matos-Castaño et al., 2014; Verhoest et al., 2015). The private sector requires trust and goodwill to be built between it and the government. This can be achieved by ensuring a record of consistency and fairness in applying legal and regulatory frameworks (Jooste et al., 2009) and providing a stable political environment (Jooste et al., 2009; Matos-Castaño, 2011; Matos-Castaño et al., 2012; Matos-Castaño et al., 2014; Verhoest et al., 2015). The establishment of a PPP unit will provide legitimacy and support for PPP (Matos-Castaño, 2011), as will having a strong project portfolio (Matos-Castaño, 2011; Verhoest et al., 2015) and the support of stakeholders involved in PPP (Jooste et al., 2009; Matos-Castaño, 2011; Matos-Castaño et al., 2012).

Capacity

According to the Oxford Dictionary, capacity is defined as "the maximum amount something can obtain"[4]. The PPP literature emphasises the importance of building specialised institutional capacity for undertaking PPP projects and developing PPP programs (Jooste et al., 2009). The responsibility for ensuring PPP programme success lies with government, so it is up to the government to establish capacity that will ensure success such as creating PPP units (Jooste et al., 2009). Governments should build the necessary capacities and establish new institutions to implement PPP programs successfully (UNECE, 2008) and to enable them to monitor projects (Delhi et al., 2010). However, in their framework for ensuring PPP success, Jooste et al. (2009) argue that successful PPPs require capacity to be built up with other stakeholder groups as well, namely, the private sector and the civic sector. Thus the Jooste et al (2009) framework focuses on PPP success from the three stakeholders' point of view.

In terms of building capacity, new institutional structures should be established as there is not one-size-fits-all best practice when it comes to establishing PPP programs (PPIAF, 2007). This can take the form of identifying and supporting the creation of financial and legal skills necessary for the public sector to acquire (Matos-Castaño, 2011; Matos-Castaño et al., 2012). Capacity building also takes the form of ensuring there is a market of private providers (Jooste et al., 2009; Matos-Castaño, 2011; Matos-Castaño et al., 2012) and ensuring that there is a coordinated PPP deal flow (Jooste et al., 2009; Matos-Castaño et al.,

[4] https://en.oxforddictionaries.com/definition/capacity

2012). Additionally the literature suggest that it is important that there is ongoing PPP policy learning (Jooste et al., 2009; Matos-Castaño et al., 2012; Matos-Castaño et al., 2014; Verhoest et al., 2015) and that the performance of PPPs is monitored (Matos-Castaño et al., 2014; Jooste et al., 2009). Lastly, it is important that PPP projects are of high enough quality (Jooste et al., 2009; Matos-Castaño, 2011; Matos-Castaño et al., 2012; Matos-Castaño et al., 2014; Verhoest el al., 2015) to ensure that PPP capacity can built.

Trust

Trust is defined as a willingness to rely on others, taking into account contractual obligations and social obligations (Smyth and Pryke, 2008). In the context of PPP Matos-Castaño (2011, p.19) puts forward a definition of trust which includes fostering trust between the public and private sectors through the use of "standards and mechanisms implemented by government". Specifically, they argue that the public sector can develop trust through the use of decision-making departments, guidance documents, a regulatory agency, dispute resolution mechanisms and cooperation platforms. The private sector can develop trust through the use of project monitoring and cooperation platforms. Verhoest et al. (2015, p.120) stipulate that trust is developed between the public and private sectors through the use of "clear regulations and standards, well defined roles of the public sector, and ex-ante evaluation".

However, Jooste et al. (2009) do not talk about trust but about balancing the interests of the various stakeholder groups: the public sector, the private sector and the civic sector. They suggest that there should be "give and take" between the various stakeholder groups, specifically, fairness in contract negotiations, regulation, preventing corruption and preventing opportunistic behaviour (Jooste et al., 2009, p.7). Overall they suggest that there should be trust between the various stakeholders involved in PPP and this will strengthen the sustainability of the policy (Jooste et al., 2009).

In terms of building trust in PPP, the literature suggests that a complaints and arbitration process should be implemented (Matos-Castaño, 2011; Matos-Castaño et al., 2012). By ensuring that there is fairness in PPP procurement (Matos-Castaño, 2011; Matos-Castaño et al., 2014) and PPP programme accountability (Matos-Castaño et al., 2012; Verhoest et al., 2015) it is assumed that trust between the various stakeholder groups in PPP will be maximised.

3.3.3 Patterns of PPP Adoption Framework

Chapter 2 reviewed the literature on PPP and its adoption in Ireland. This chapter reviewed policy transfer theory and institutional theory to examine how patterns of PPP

adoption and aspects of institutional capacity building affect the sustainability of PPP. This has been combined to develop a framework to examine patterns of PPP adoption and Table 3.2 outlines this framework. Based on the literature review, this framework proposes that the most sustainable PPP environment is associated with (1), voluntary policy transfer with strong institutional capacity building, where institutional environments and institutional capacity are changed and developed to meet the challenges arising from PPP procurement. This is followed by (2), coercive policy transfer and strong institutional capacity building; (3), voluntary policy transfer and weak institutional capacity building; and (4), coercive policy transfer and weak institutional capacity building.

Table 3.2: Patterns of PPP Adoption Framework

		Degree of Policy Transfer	
Degree of Institutional Capacity Building		**Weak**	**Strong**
	Voluntary	(3) Voluntary PT & weak institutional capacity building	(1) Voluntary PT & strong institutional capacity building
	Coercive	(4) Coercive PT & weak institutional capacity building	(2) Coercive PT & strong institutional capacity building

(Sheppard and Beck, 2016)

This research is proposing the combining of policy transfer theory and institutional theory to examine patterns of PPP adoption and this is in line with Yazan's (2015) assertion that the combining of theories adds rigour to the research process. Chapter 4 will outline how this framework was applied in the pilot study.

3.4 Research themes and questions

In this research, policy transfer theory provides a means of exploring how PPP policy has come to be adopted in Ireland. It underpins research question 2:

RQ 2: What is the extent of the influence of policy transfer on PPP adoption in Ireland?

This establishes whether the policy transferred was conducted in a voluntary manner or a coercive manner. Policy transfer theory also provides a means of exploring whether lessons learnt have changed or enhanced the PPP policy in Ireland and whether this has led to more successful outcomes. There is a strong rationale for combining policy transfer and institutional theories (Radaelli, 2000) and this is the approach taken in this study.

The last element is further analysed using institutional theory to investigate research question 3:

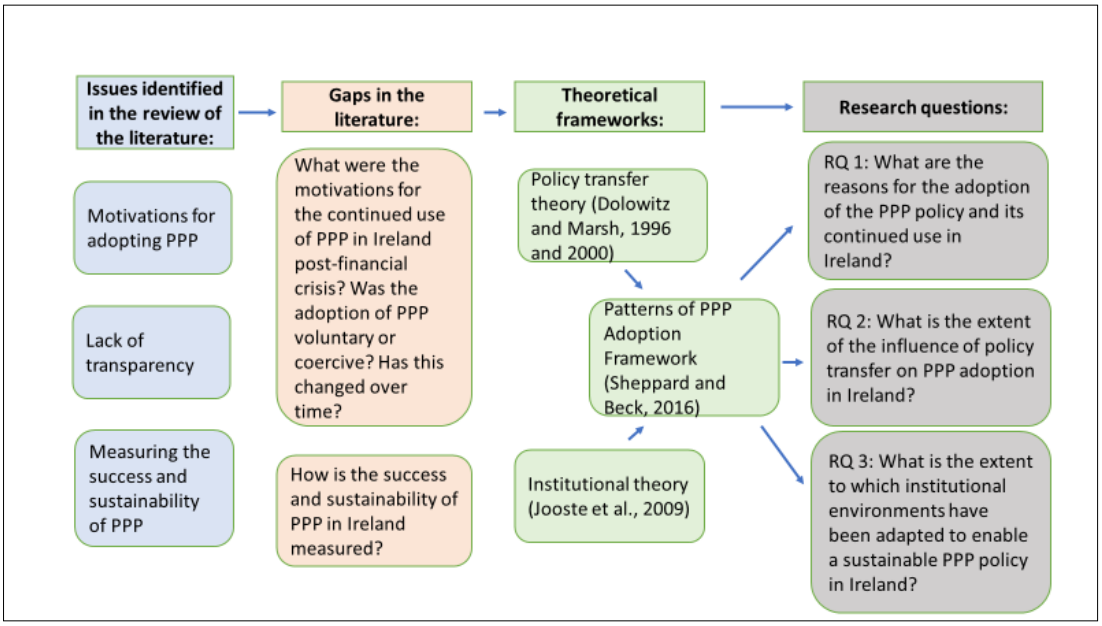
RQ 3: What is the extent to which institutional environments have been adapted to enable a sustainable PPP policy in Ireland?

Jooste et al. (2009) propose a theoretical framework for the actions needed to ensure the sustainable implementation of PPP projects which builds on scholarly work of the UNECE (2008), the OECD (2008), Yescombe (2007), Aziz (2007), The Canadian Council for Public-Private Partnerships (2005), Kumaraswamy and Zhang (2001), Durchslag et al. (1994), Pongsiri (2002) and Li et al. (2005b). This framework gives an indication of the tasks for the successful development of a PPP program. The framework identifies 19 themes[5] necessary to ensure the successful development of a PPP programme and groups them under the three main objectives of successful PPP implementation: building capacity, obtaining legitimacy and balancing interests (Jooste et al., 2009). By applying an adapted version of this framework to Ireland, it is hoped that this research will have explored the institutional environments arising within PPPs which lead to more sustainable and transparent PPP arrangements. It is not necessarily to examine policy success or failure but to explore if institutional environments have been changed to make PPP policy sustainable.

A conceptual framework aims to guide a study's design (Savin-Baden and Major, 2010). Figure 3.1 provides a conceptual framework for this research which illustrates how, on examination of the literature, the researcher identified issues with PPP regarding the motivations for its adoption, a lack of transparency surrounding the policy, and how PPP success and sustainability are measured. An in-depth review of the literature identified gaps in the understanding and knowledge of the motivations for the continued use of PPP in Ireland post-financial crisis, a lack of understanding as to whether PPP was adopted on a voluntary or coercive basis, and whether this had changed over time. Combining policy transfer theory and institutional theory to develop the patterns of PPP adoption framework allows the research questions to be identified and provides a theoretical framework to examine these issues.

[5] Increasing public awareness and understanding of PPPs; developing a market of private providers; providing government support for private providers; keeping line agency discretion in check; monitoring behaviour of private providers; increasing programme accountability; ensuring management support to public sector agencies on specific projects; ensuring the PPP projects promote the public interest; ensuring fairness of PPP procurement; improving environmental performance of projects; supportive legal framework; political commitment; buy-in from key constituents; good public sector knowledge of PPPs; a PPP unit; measures to coordinate deal flow; programme transparency; ensuring the quality of projects and implementing independent oversight.

Figure 3.1: Conceptual framework



3.5 Conclusion

This chapter has examined the literature on policy transfer theory and institutional theory in relation to PPP. Policy transfer theory has been examined using the Dolowitz and Marsh (2000) framework which provides conceptual underpinning for an exploration of PPP policy patterns in Ireland. Specifically, it is important whether the policy transferred has been conducted in a voluntary manner or a coercive manner. Policy transfer theory also provides a means of exploring whether lessons learnt have changed or enhanced PPP policy in Ireland and whether it has led to a more successful outcome.

The theories examined in this chapter are used to structure the pilot study which is outlined in chapter 4 and the extended study, the results of which are outlined in chapters 5 and 6. The next chapter documents the methods used to conduct the pilot study and the extended study.

Chapter 4 – Research Methodology

4.1 Introduction

This chapter aims to justify the research methodology in relation to the research questions stated earlier. Section 4.2 explores the research philosophy focusing on the ontological and epistemological positions. Section 4.3 discusses the design of the study and how the results of the pilot study informed the development of the extended study. Section 4.4 discusses the application of the data analysis method used in the study. Finally, section 4.5 explores questions of validity and reliability of research design and the approach taken to this in this study.

4.2 Research Philosophy

Researchers need to be aware of their assumptions about the nature of social reality and what it means to be human (ontology) (Morgan and Smircich, 1980), and the nature and purpose of knowledge (epistemology), that is, the general set of conventions about how best to inquire into the nature of the world (Easterby-Smith et al., 2008). Only then should they decide which research methods might be suitable (Cunliffe, 2011). The relationship between data and theory has to be thought through to ensure the quality of research and research design (Easterby-Smith et al., 2008). Specifically, researchers must examine their world view or "paradigm" in relation to research objectives and methodologies (Creswell 2013; Guba and Lincoln, 1994).

Epistemology relates to what constitutes knowledge (Quinlan et al., 2015). Accepting an epistemological stance usually leads the researcher to adopt methods that mirror their epistemological position (Easterby-Smith et al., 2008). A research study usually adopts either a positivist or an interpretivist approach to epistemology. Positivism advocates that there is one objective reality or truth existing in the world (Bryman, 2008). It is based on the natural science model of dealing with facts and is more closely aligned to the quantitative method of analysis (Noor, 2008). Interpretivism has come about from writers opposing the application of natural science approaches to the study of social reality (Bryman, 2008). Interpretivism contends that social reality is a subjective construction based on interpretation and interaction (Quinlan et al., 2015) and requires the researcher to understand the subjective meaning of social action (Bryman, 2008), which usually involves a qualitative approach to research.

Ontological assumptions are based on what is considered the nature of reality (Quinlan et al., 2015). The question is whether social entities can and should be considered objective entities (objectivism) that have a reality external to social players, or whether they can and should be considered social constructions (social constructionism) built up from the discernments and actions of social players (Bryman, 2008). Objectivism implies that social phenomena are a given, and that thus, are external to our research (Bryman, 2008), while social constructionism suggests that social phenomena are produced through social interaction and are continually changing (Bryman, 2008). Positivists argue that there is one true reality that is "apprehendable, identifiable and measurable" (Ponterotto, 2005, p.130), while interpretivists and social constructivists believe that there are many different realities influenced by the situation (Ponterotto, 2005) and each researcher interprets the work in their own way and thus construct their own realities (Quinlan et al., 2015). It is common in research that objectivism is associated with positivism and social constructionism with interpretivism (Bryman, 2008).

Postpositivists, however, are dissatisfied with the positivist stance and believe that while there is a true reality, it "can only be apprehended and measured imperfectly" (Ponterotto, 2005, p.130). Positivism creates knowledge through the objective stance of a researcher collecting facts about the social world and arranging those facts to explain the social world (Noor, 2008). In contrast, with postpostivism, while they believe there is an objective reality the understanding of that reality is "socially constructed rather than objectively determined" (Noor, 2008, p.1602) and this is a position known as "critical realism" (Ponterotto, 2005, p.130) which is founded on the works of Roy Bhasker (1997).

Realism is a philosophical position which encompasses naive realism and critical realism (Bryman, 2008). Naive realism assumes that the researcher's conceptualisation of reality directly reflects that reality or is as close as can be to it (Bryman, 2008). Naive realists believe that there is a perfect correspondence, or as near as possible, between the reality they observe and the means by which they use to describe it. Critical realists, on the other hand, accept that the means by which they describe the reality they observe is provisional, imperfect and subject to change. Therefore, "critical realists recognize that there is distinction between the objects that are the focus of their inquiries and the terms they use to describe, account for, and understand them" (Bryman, 2008, p.15). Critical realists also admit into their research theoretical entities which may not be immediately observable or apparent but which are accepted because their effects can be observed. By making these entities, referred to by Bhaskar as "generative mechanisms", explicit, critical realism affords the possibility of

changing or adapting them and thus altering the *status quo* (Bryman, 2008, p.15). Critical realism assumes that to understand and change the social world, we need to identify the structures at work, and then by conceptualising them, we begin to understand that reality (Bryman, 2008). Critical realists accept that certain laws of behaviour have always existed, and that while we may not completely understand them, if certain events occur, they are brought into play. Therefore, by taking a course of action, we can change the course of events (Ryan and Scapens, 2002)

If it is believed that research is intended to explore "the thoughts, feelings and beliefs about the phenomenon under investigation", then a project can be developed under an interpretivist framework (Quinlan et al., 2015, p.62). In this case participants will respond to the research in a unique and individual way and will provide data which is "rich and descriptive" (Quinlan et al., 2015, p.63). As previously noted, qualitative research is often associated with an interpretivist approach (Bryman, 2008; Ponterotto, 2005). It can be associated with a postpositivist approach, particularly if the aim is to "describe and explore in-depth phenomena" (Crossan, 2003, p.46). If the project aim is to establish the facts of some phenomenon, it may be suited to a positivist framework (Quinlan et al., 2015) where efforts are made to understand the social world objectively. As previously noted, quantitative research is often associated with a positivist approach (Bryman, 2008; Ponterotto, 2005).

In this study, the epistemological approach taken is not purely positivist or interpretivist, which may be seen as a limitation. While a reality exists in that PPP is in operation in Ireland, the literature review in chapter 2 showed that its operation is flawed by aspects such as poor transparency and failure to demonstrate value for money (VFM). Furthermore, there is a gap in the literature explaining the motivations for the continued use of PPP post-financial crisis. It is not immediately obvious why PPP was adopted and why it has continued to be used in Ireland. As previously noted this study proposes to investigate this issue via research question one:

> *RQ 1:What are the reasons for the adoption of the PPP policy and its continued use in Ireland?*

Research question two will examine how policy transfer has influenced the adoption of PPP adoption in Ireland using the framework put forward by Dolowitz and Marsh (1996 and 2000) and discussed in *3.2.1 Policy Transfer theory: Dolowitz and Marsh (1996 and 2000) framework*:

RQ 2: What is the extent of the influence of policy transfer on PPP adoption in Ireland?

A critical realist stance suggests that by understanding the forces at work in the introduction and operation of PPP in Ireland, whether observable of themselves or by their effects, a better understanding of the policy can be achieved and desirable change can be recommended to improve on the *status quo* (Bryman, 2008). This focus on effects is particularly important in relation to PPP in Ireland given that a full VFM of such projects is not possible because of financial information being commercially confidential. If the observable performance can be objectively measured against an accepted framework, the forces at work can be made explicit, the performance of PPP can be evaluated and improvements, if any, can be recommended. The literature review in chapter 3 acknowledges the reality that PPP exists in Ireland. It also acknowledges that it is flawed. This brings about research question three:

RQ 3: What is the extent to which institutional environments have been adapted to enable a sustainable PPP policy in Ireland?

This question focuses on the extent to which institutional environments have been adapted to enable a sustainable PPP policy. The performance of PPP will be evaluated using a framework based on the Jooste, Levitt and Scott (2009) framework discussed in *3.4 Research themes and questions*.

4.3 Research Design

Postpositivism accepts that reality can only be understood and "measured imperfectly" (Ponterotto, 2005, p.130) and the researcher's goal is not to "gather facts and measure how often certain patterns occur but to appreciate the different constructions and meanings that people place on their experience" (Noor, 2008, p.1602). A postpositivist researcher may use semi-structured interviews adopting "raters" to attempt to identify a collective reality of interviewees' experiences which may be based on identified themes (Ponterotto, 2005, p.130). Semi-structured interviews were used in this study and it was felt that this is the most suitable methodology to understand why PPP was adopted in Ireland and why it has continued to be used. Furthermore this data gathering approach helps examine issues related to the sustainability of PPP in Ireland via interviewees with experts from the public and private sector who are involved in PPP.

A qualitative research approach is considered appropriate in this study due to the nature of the research questions. Qualitative research focuses on describing and explaining people's experiences, actions, exchanges, and social contexts (Strauss and Corbin, 1990) and

"developing understanding of the meaning and experience of human lives and their social worlds" (Fossey et al., 2002, p.730), and this reflects the type of research questions developed in chapters 2 and 3 in this study. A postpositivist approach is also being taken in this study and, as discussed in *4.2 Research Philosophy*, postpositivism is suited to a qualitative perspective (Crossan, 2003). Although the research strategy influences the choice of research methods, the research questions of the study ultimately govern the research methods to be used, which include how data will be collected and analysed.

Bryman (2008) writes that there five different types of recognised research design: experimental design, case study design, longitudinal design, comparative design, and cross-sectional or survey design. Quinlan et al. (2015, p.145) add several additional "methodologies"[6] to this list. They also suggest that researchers can learn from the methodologies of existing researchers. Policy transfer theory, outlined in chapter 3, is being utilised in this research. The predominant method of policy transfer analysis is case studies (Marsden and Stead, 2011) and most policy transfer studies have been "single-issue case studies" (Wolman and Page, 2002, p.477). The case study approach is therefore the approach adopted in this study and is further justified in the next section.

4.3.1 Case study design

Case studies are "a strategy of inquiry in which the researcher explores in depth a program, event, activity, process, or one or more individuals" (Creswell, 2013, p.135) for a defined period of time (Leedy and Ormond, 2005). A case study approach is useful for investigating "little known or poorly understood" situations and how "an individual or programme changes over time" as events or circumstances change (Creswell, 2007, p.135). Creswell (2007) writes that "a case study research method intends to survey how an issue is discovered through one or more cases within a bound" such as "a particular individual, limited programme or event" which is "deeply and thoroughly studied in a specific time period" (Tavallaei and Talib, 2010, p.574).

Yazan (2015) outlines three different approaches to case study design developed by Yin (2002), Merriam (1998) and Stake (1995). Yazan (2015) analyses these approaches and outlines the differences between the three. An abstract of this analysis is summarised in Table 4.1:

[6] ethnography; action research; grounded theory; content analysis; discourse analysis; document analysis; historical analysis; life history; phenomenology; narrative analysis; semiotics, attitude research, image-based research; archival analysis; textual analysis; meta-analysis and feminist research.

Table 4.1: Summary of differences between case study approaches			
	Yin (2002)	**Stake (1995)**	**Merriam (1998)**
Epistemological commitments	Positivism	Constructivism and existentialism	Constructivism
Case	"a contemporary phenomenon within its real life context, especially when the boundaries between a phenomenon and context are not clear and the researcher has little control over the phenomenon and context" (Yin, 2002, p.13)	"a specific, a complex, functioning thing," more specifically "an integrated system" which "has a boundary and working parts" and purposive (in social sciences and human services) (Stake, 1995, p.2)	"a thing, a single entity, a unit around which there are boundaries" (Merriam, 1998, p.27) and it can be a person, a program, a group, a specific policy and so on.
Designing a case study	Design refers to "the logical sequence that connects the empirical data to a study's initial research questions and, ultimately, to its conclusions" (p. 20). Quantitative and qualitative	Flexible design which allows researchers to make major changes even after they proceed from design to research. Researchers need a set of two or three sharpened issue questions (research questions) that will "help structure the observation, interviews, and document review" (Stake, 1995, p.20). Exclusive use of qualitative data sources	Literature review is an essential phase contributing to theory development and research design. Theoretical framework emerging from literature review helps mould research questions and points of emphasis. Exclusive use of qualitative data sources
Data gathering tools	Documentation, archival records, interviews, direct observations, participant observation and physical artefacts	Observation, interview and document review	Interviews, observing, and analysing documents
Source: Yazan, 2015, p.148.			

Yin's (2002), Stake's (1995) and Merriam's (1998) approaches are all suitable for programme evaluation (Yazan, 2015), and as this study involves the evaluation of a programme, the PPP policy in Ireland, a case study approach is appropriate. While Yin (2002) postulates that case study research requires the "identification of a theoretical perspective at the beginning of the investigation" as it "affects the research questions, analysis and interpretation of findings" (Tavallaei and Talib, 2010, p.574), Stake (1995) allows a flexible

design which allows changes to be made as the research progresses from the design to the research gathering stage.

The writer who most reflects this researcher's description of a case is Merriam (1998) who describes it as being "a specific policy", which in this research is the policy of PPP. Yin's (2002) description of a case is much broader, being referred to as "a contemporary phenomenon", as is Stake's (1995) description of "a specific, a complex, functioning thing". Merriam (1998) asserts that in designing a case study "the literature review is an essential phase contributing to theory development and research design", and that "theoretical frameworks emerge from the literature review which help to shape research questions" (Yazan, 2015, p.148). In this study the theoretical frameworks evolved from the literature in chapter 3 and helped shape research questions 2 and 3, an approach which closely follows Merriam (1998). Merriam's (1998) and Stake's (1995) description of designing a case study makes use of qualitative data while Yin's (2002) description utilises quantitative and qualitative data. This study utilises qualitative data in answering research question three. Yin's (2002) epistemological position is positivist, Stake's (1995) constructivist and existentialist, and Merriam's (1998) constructivist. The researcher's epistemological position in this study does not explicitly follow any of these writers as it is postpositivist based on a position of critical realism. Therefore, this researcher deems Merriam (1998) to be most closely aligned with the research in this study.

The rationale for using a single case study approach in this research, meanwhile, arises from Yin (2013, p.14) who describes it as investigating a "contemporary phenomenon". Merriam (1998) suggests that such phenomena can include as "a person, a programme, a group or, in the case of this research, a policy" (Yazan, 2015, p.148), and in this study the phenomenon under examination is obviously the PPP programme in Ireland. The focus of the research is on an evaluation of the sustainability of the PPP policy in Ireland, and three distinct points in time have been identified. These stages relate to punctuation points in the policy's evolution where stage 1 PPPs (Pilot projects 1999 – 2002) involve the introduction of the policy through the development of pilot projects, stage 2 PPPs (Pre-crisis 2002 – 2008) involve the roll-out of this policy across different sectors until the financial crisis, and stage 3 PPPs (Post-crisis 2012 onwards) involve the use of this policy to create jobs and stimulate the economy.

It is important to recognise that a case study approach does have some limitations. Case studies have been criticised for their "lack of scientific rigour and reliability and that they do not address the issues of generalizability" (Noor, 2008, p.1603). However, they allow

the researcher to gain a rounded view of events or a phenomenon, particularly where the phenomenon under review is fast changing (Noor, 2008).

The next section describes the decision to conduct an initial pilot study and how it was used to road test the extended study's interview questions. It should be noted that the results of the pilot study were combined with a document analysis and informed the extended study.

4.3.2 The Pilot Study

A feasibility study is referred to as "small scale version[s], or trial run[s], done in preparation for the major study", while, a pilot study can also be the pre-testing or "trying out" of a particular research instrument (Van Teijlingen and Hundley, 2001, p.1). One of the benefits of conducting a pilot study is that it can give "advance warning of where the main project could fail or methods proposed may not work" (Van Teijlingen and Hundley, 2001, p.1).

The pilot study is usually carried out using a small number of respondents (Quinlan et al., 2015) and in this research the pilot study involved interviews with three participants. Participants were selected using purposive sampling which entails the researcher sampling on the basis of wanting to interview people who are relevant to the research questions (Bryman, 2008). One interviewee was from the public sector (member of the Committee of Public Accounts), one was from the private sector (senior economist) and one form the civic sector (senior trade union official). Two of the interviews, with a senior member of the Committee of Public Accounts and a senior trade union official, were conducted face to face in 2013. Handwritten notes were made by the researcher at these interviews. It became apparent that the material gathered for the pilot study was of publishable standard but lacked input from the private sector. In late 2015 contact was made with a senior economist so had worked on PPP project financing in an investment bank on the PPP pilot projects. She was interviewed in January 2016 by telephone and this interview was digitally recorded with the consent of the interviewee. The interview tape was outsourced to be transcribed verbatim by a transcription service, with the consent of the interviewee. This interviewee appears as P1 on Table 4.2 in *4.3.3 The Extended Study*. However, her interview only informs the pilot study and not the extended study. The pilot study was published in 2016 (Sheppard and Beck, 2016), see Appendix S.

The member of the Committee of Public Accounts was contacted after the researcher attended a number of meetings in 2012 and 2013. The trade union official was suggested as a potential interviewee by another member of the Committee of Public Accounts and the

economist was an acquaintance of the researcher. All interviewees gave verbal permission for the results of the interviews to be used as part of the pilot project. The benefit of carrying out this pilot study was that it allowed the researcher to test the research questions and to perfect her interview skills.

During the pilot study interviewees were asked about nine of the themes identified on the Jooste et al. (2009) framework which proposes a theoretical framework for the actions needed to ensure the sustainable implementation of PPP projects (see *3.4 Research themes and questions*). The pilot study interviews and the notes made during the interviews were triangulated with a document analysis of PPP policy documents in Ireland and the UK, transcripts from the Committee of Public Accounts, Comptroller and Auditor General reports (those of which were available up to the point of the pilot study and are included in Appendix B) and academic literature available at the time of the pilot study, thus ensuring that findings could be "cross-checked" (Bryman, 2008, p.700). This served the purpose of exploring the rationales for PPP policy-making, the results of which were plotted on the framework outlined in *3.3.3 Patterns of PPP Adoption Framework.*

4.3.2.1 Results of the pilot study

The data generated during the pilot study was analysed using thematic analysis (described in *4.4 Data Analysis*)and the results showed evidence of policy transfer in PPP and also evidence of institutional capacity building. These results are summarised in the following paragraphs.

Pilot study: Evidence of Policy Transfer

Ireland's role as a late adopter of UK style PPP is evidenced by the nature of its policy guidelines (Sheppard, 2016). Irish guidelines produced to assist those engaged on PPP projects within the local government sector (Department of the Environment, Heritage and Local Government, November 2003) closely mirror the UK Green Book (HM Treasury, 2003). The Irish guidelines were produced in November 2003 and while the UK Green Book was also produced in 2003 there is no month of publication available. An assumption is therefore being made that as the Irish guidelines were produced late in the year that the UK Green Book was published first.

The purpose of the UK Green Book was to provide guidance to promote efficient policy development and resource allocation across government. It is a best practice guide and aims to make the appraisal process more consistent and transparent. There are a number of

key points of similarity between the Irish report discussed above and the UK Green Book and are now summarised:

(1) The use of guidance material: both documents discuss how guidance given in the reports will be useful to those working in PFI and PPP. The Green Book discusses how it should be useful "for anyone required to conduct a basic appraisal or evaluation of a policy, project or programme; and, people seeking to expand their knowledge in this area" (p.3). The Irish report states that it "provides general guidance on how PPP projects are to be implemented by local authorities . . . goes through the various stages of the procurement cycle and details the conditions regarding the appraisal, approval, procurement, management and review of projects that must be met" (p.2).

(2) Training: both documents discuss training in PFI and PPP and how it will be available from government departments. The Green Book talks of guidance being available from "Departmental analysts, Public Services Delivery Analysis team in HM Treasury, and a variety of referenced sources . . . Training on project and policy assessment is available from a range of sources, including the Civil Service College" (p.7). This can be compared with the Irish report which states that "the Department of Finance, put in place a PPP Training Framework which sets out the nature of the training required and encourages private companies to provide same" (p.22).

(3) Expertise: both documents explain that expertise in PFI and PPP will be available from a government department. The Green Book states that "specialist advice can be sought from the procurement unit within a department or agency . . . or from Partnerships UK6 for PPP and PFI projects" (p.42). The Irish report speaks of "the proposed setting up of a central PPP unit within the Department of Finance which should 'roll-out' expertise to other Departments directly involved in the management of projects" (p.8).

(4) Risk Transfer: both documents state that there should be optimal risk transfer. The Green Book notes that "risk should be allocated to whichever party from the public or private sector is best placed to manage it . . . the optimal allocation of risk, rather than maximising risk transfer, is the objective, and is vital to ensuring that the best solution is found" (p.83). The Irish report states "PPPs should provide for optimal risk allocation between the public and private sectors" (p.8).

(5) Public Sector Comparators: the UK Green Book describes this a public sector adjust cost which suggests that it is the cost of procurement through traditional means, which is similar to the Irish description of a public sector benchmark. The Green Book

> describes this as a hypothetical risk-adjusted costing, by the public sector as a supplier, to an output specification produced as part of a PFI procurement exercise. The Irish report calls it the "Public Sector Benchmark" and describes the undertaking of it as "the estimated cost of carrying out the project by traditional means" (p.21).

Similarities can also be seen between the announcements in Ireland and the reform measures of PF2 introduced in the UK by HM Treasury in December 2012. Among the UK reforms were accelerating delivery in order that the tendering phase of PF2 would be no longer than 18 months, the government would have discretion to make a contribution to the failed bid costs of shortlisted bidders, the PFI procurement process would be streamlined, and steps to be taken to reduce the amount of design work and resulting costs to be carried out. In Ireland similar measures were introduced to instil confidence such as reducing the timeframe from 21 months to 15 months for preparing PPP projects to the market through to contract award and the reimbursement of bid costs to unsuccessful bidders (Department of Public Expenditure and Reform, 2013).

Similarities also exist between the C&AG's Report on the Accounts of the Public Services (Comptroller and Auditor General, 2012) and a HM Treasury report (HM Treasury, 2012). The C&AG report stated "Appropriate sharing of project risks is a requirement if PPP projects are to deliver value for money" (Comptroller and Auditor General, 2012, p.90). The UK took a similar approach (HM Treasury, 2012). It recommended a reform of the way risk allocation was handled. Under PF2, changes would be made to the risk allocation to improve value for money through the retention and management of certain risks by the public sector that were previously transferred under PFI. It is not clear whether either of these reports explicitly drew on the example of the other.

The evidence of interviews carried out in the pilot study suggested that policy transfer was both voluntary and coercive to some degree. The decision to closely follow elements of the UK model was considered to be based on pragmatic considerations and as such voluntary as remarked upon by the senior member of the Committee of Public Accounts. This interviewee suggested, however, that assumptions borrowed from the UK were sometimes inaccurate and that the approach also raised issues of transparency. Noting this lack of transparency related to industry expectations of commercial confidentiality, the interviewee said this could be addressed by publishing outcome related cost figures only. This suggested that, while the decision to adopt UK-style PPP was largely voluntary, industry expectations created a coercive element with regard to the evaluation of the scheme.

The senior trade union interviewee maintained that for local authorities, the adoption of PPP was largely coercive. He cited examples of water projects where direct public procurement would have been cheaper and deduced that the Department of the Environment was biased in favour of PPP. He felt commercial confidentiality was unjustifiably forced on the public by industry, since information is only commercially sensitive at the bidding stage, while post contract, the use of public money should mandate public disclosure.

The senior economist and bank representative, involved in PPP project finance highlighted that the initial adoption of PPPs had been largely voluntary and was difficult to explain on pragmatic or economic grounds, indicating that there had been potentially symbolic or legitimatory drivers. However, at the time of the interview in 2013, PPP adoption reflected the public sector's restricted access to borrowing signifying that PPP adoption shifted from voluntary to coercive policy transfer.

Pilot study: Evidence of Institutional Capacity Building

Applying the Jooste et al. (2009) framework outlined in chapter 3 to the pilot study, this section focuses on institutional structures created by Ireland to support PPP procurement. The analysis focused on nine themes of the Jooste et al. (2009) themes: supportive legal framework, political commitment, buy-in from key constituents, good public sector knowledge of PPPs, a PPP unit, coordination of deal flow, programme transparency, and ensuring the quality of projects while implementing independent oversight.

(1) Pilot study: Developing and applying a supportive legal framework

In 2001 and 2002 Ireland passed acts to facilitate state participation in PPPs: the Transport (Railway Infrastructure) Act 2001; the State Authorities (Public Private Partnership Arrangements) Act 2002; and the National Development Finance Agency Act 2002. The last established the National Development Finance Agency (NDFA) which funds infrastructure through long-term debt and equity. The role of the NDFA was expanded through amending legislation which tasked it with establishing a Centre of Expertise for procuring PPP projects on behalf of State authorities. The NDFA was further authorised to provide contract management services for PPPs projects. Accordingly, at the time of the pilot study a consistent legal framework appeared to be in place to support the implementation of PPP.

(2) Pilot study: Providing political commitment

PPP was endorsed by the 1997 – 2002 government and PPP pilot projects were announced in 1999 (Connolly and Wall, 2009). The National Development Plan 2000 – 2006 (NDP) confirmed the government's commitment to PPP by highlighting its potential in

transport and environmental projects. This was abandoned with the financial crisis which put 24 projects on hold (Reeve, 2013b).

Following recommendations by the Irish Business and Employers Confederation (IBEC), the Minister for Public Expenditure and Reform announced a €2.25 billion domestic infrastructure stimulus programme in 2012 (Department of Public Expenditure and Reform, 2012). Details were announced in 2013 regarding Phase 1 to be delivered through PPP, valued at €1.4 billion. The government also agreed €250 million in new PPP projects in the areas of schools, energy efficiency and roads.

One motivation for this PPP programme was to create jobs and stimulate the economy. Moreover, the NDFA explained that it was using the PPP programme to keep borrowing "off balance sheet" (NDFA, 2013). This indicated that the relevance of PPP to Irish politics had changed significantly, with PPP no longer being a voluntary option and becoming a necessity in terms of maintaining adequate public investment. It also implied that political commitment had increased considerably from a stage where PPP was considered a fashionable approach to procurement which created an image of modernisation in line with UK policy, to one where PPP became the main (if not sole) option in dealing with capital spending shortfalls.

This view was confirmed by the senior economist who suggested that the PPP scene, at the time of the pilot study, was characterised by strong political commitment at all government levels as this was now seen as a tool for overcoming funding shortfalls.

(3) Pilot study: Gaining buy-in from key constituents

Buy-in from key constituents can be illustrated by a number of key submissions and reports supporting PPPs by organisations such as the Irish employers' association (IBEC), the construction industry, advisory groups and, initially, trade unions and community groups. In January 1998, IBEC and the Construction Industry Federation (CIF) presented a report to government which argued for PPPs as a means of addressing the infrastructure deficit. The social partnership agreement, Programme for Prosperity and Fairness (Department of the Taoiseach, 2000) stated that PPP would contribute significantly to the implementation of the national development plan (NDP), drawing on the experience gained from then current PPP pilot projects. Mechanisms would be agreed by the relevant social partners to deliver efficient, transparent and fair contracts, tendering and contractual procedures for PPP procurement.

In November 2001 a "Framework for Public Private Partnerships" (Public-Private Partnership Advisory Group, 2001) was launched involving an advisory group comprising representatives of IBEC, trade unions, the CIF and the main PPP agencies. The report

recognised the critical role of social partnership and stakeholder consultation, and initially trade unions favoured PPP. The unions interpreted the guidelines on PPP consultation as requiring detailed consultations on Procurement Assessment Reports (PAR), which consider different procurement alternatives in terms of economic, engineering and organisational aspects[7]. In the case of a replacement wastewater treatment plant, five round-table meetings took place where stakeholders raised questions and made changes to the PAR prior to its 2007 submission to the Department of the Environment (Reeves, 2013a).

In the case of another PAR of mid-2006, consultation was less cooperative and failed to facilitate agreement. In the case of a mixed tenure housing and urban regeneration PPP proposed as a design, build and finance, a plan unveiled by Dublin City Council in 2004 had no input from residents or community organisations. This plan was rejected and a period of negotiation was agreed. The council initially resisted having community representatives on the bid assessment panel but relented after a year. The economic crash resulted in this PPP project collapsing in 2008 (Reeves, 2013b).

There appeared to have been buy-in to PPP by IBEC, the CIF and, initially, the unions. The trade union experience with the 2006 PAR and the experience in the development of mixed tenure housing indicate that, although Irish PPP may have been supported initially by efforts to gain buy-in from constituents, this has been less so at the time the pilot study was conducted. This was indicative of the increasingly coercive nature of Irish PPP at the time of the pilot study.

(4) Pilot study: Improving public sector knowledge of PPPs

In 1998 an interdepartmental group (IDG) explored the introduction of PPPs with a focus on roads. Farrell Grant Sparks Consultants reported to the IDG in July 1998. Discussions with the UK Treasury Task Force convinced the IDG to create a central PPP unit in 1999, as well as PPP units in the Departments of the Environment, Education and Public Enterprise (Connolly and Wall, 2009).

There was evidence of efforts to provide PPP-specific training and guidance to public sector staff. Also it appeared the IDG endeavoured to learn from the UK experiences, but it is unclear whether this was effectively communicated to key public sector managers. This view was echoed by the senior economist who noted there had been significant

[7] Public Private Partnership – Stakeholder Consultation for Employees and their Representatives, January 2005.

opportunities for learning at specialised conferences with expert participation, which may have helped the ongoing learning by doing processes.

(5) Pilot study: Establishing a PPP unit

Founded in 2002, the NDFA can be considered to partially fulfil the functions of what can be described as a "dedicated PPP unit" (Burger, 2009, p.82). However, as in the UK, there was some initial dissatisfaction with the way this role was performed. In 2012, the UK HM Treasury called for a stronger government role where equity investment would be managed by "a commercially-focused central unit located in Treasury . . . managed by individuals with the appropriate professional skills to oversee the investment and make commercial decisions" (HM Treasury, 2012, p.7). IBEC's call for the establishment of a "National Infrastructure Authority" with strategic policy responsibility for determining whether PPP is an adequate delivery mechanism indicates similar dissatisfaction with the existing arrangements in Ireland. This was mirrored by trade union calls for cross-departmental coordination of PPP activity (ICTU, 2011), which suggested that while Ireland has an organisation – the NDFA - it did not yet fulfil all the functions it ideally should pursue.

(6) Pilot study: Coordinating deal flow

At a PPP conference held in Dublin on 21 March 2013, the then Minister of State for Public Service Reform and the Office of Public Works, Mr Brian Hayes TD announced changes to PPP projects aimed at instilling confidence and maximising market participation. These were: reducing to 15 months the timeframe for preparing PPP projects to the market through to contract award, and reimbursing bid costs to unsuccessful bidders. The Minister also stated the PPP process would be streamlined, with less documentation and meetings and specimen designs drawn up prior to the bidding process (Hayes, 2013). This was confirmed by the senior economist who highlighted current measures to reduce the historically lengthy negotiation process which could require periods of two years and more for contract completion.

There are similarities between the announcements in Ireland and the UK PF2 reform measures introduced by HM Treasury in December 2012. As mentioned before the UK reforms reduced the tendering phase of PF2, allowed the government to subsidise bid costs, and reduced the amount of design work to be carried out for bids (HM Treasury, 2012). Similarly, the UK expected the pipeline of PFI deals to stimulate national and local economies (National Audit Office, 2010), while Ireland's domestic infrastructure stimulus

package of July 2012 envisioned €1.4 billion to be delivered through PPP (Department of Public Expenditure and Reform, 2012).

Both Ireland and the UK took measures to increase the PPP deal flow post the 2008 crisis. This highlighted the vulnerability of the PPP industry to economic shocks and indicated that neither Ireland nor the UK had a structured national infrastructure policy. The senior economist noted it was difficult initially to attract international companies and create sufficient market interest for scalability reasons but, at the time of the pilot study, the government was addressing this issue by creating a pipeline of PPP projects. The similarities of policy responses indicate the lasting legacy of policy transfer between the two countries.

(7) Pilot study: Improving programme transparency

Policies aimed at improving the transparency of the PPP process in Ireland have been rife with contradictions. The Report on the Accounts of the Public Services 2011 published by the C&AG recommended that "evaluations of the value for money expected to be achieved through procurement of projects by means of PPP should be published" and stated "… a PPP cannot proceed unless it is found likely to deliver better value than traditional procurement" yet "few value for money reviews of PPP projects have been published" (Comptroller and Auditor General, 2012, p.79-80). The report noted that the NDFA had carried out value for money testing on the third schools bundle project, but the results of the final deal had not been disclosed as they could compromise negotiations. The Chief Executive of the National Roads Authority (NRA) reported to the Committee of Public Accounts in 2013 that he could not "reveal the individual consortia's precise commercially sensitive information" on the M3 PPP motorway project (Committee of Public Account, 2013, p.15).

There have been few value for money reviews of PPPs in Ireland yet other jurisdictions make such information available. At the time of conducting the pilot study there was a strong indication that although value for money assessments are given central importance by the Irish government, full evaluation was not taking place. The senior member of the Committee of Public Accounts stated that the Department of Public Expenditure and Reform should *mandate* how to measure value for money. Similarly, the senior trade union interviewee said there is no empirical evidence in the public domain that a PPP is better value for money. At the time of the pilot study it was concluded that as evaluations of these assessments were not in the public domain because of commercial sensitivity issues, neither Ireland nor the UK fully met the requirement for sustainability.

(8) Pilot study: Ensuring the quality of projects

The decision to implement PPPs in Ireland followed the publication of the 1998 Farrell Grant Sparks report which listed the benefits as a focus on service outcomes rather than the assets, optimum risk allocation, and value for money. These expectations were not fully confirmed by later reports. As discussed in *2.3.3 Oversight of PPPs by the Comptroller and Auditor General and the Committee of Public Accounts*, the C&AG's value for money report (No. 48) on the Grouped Schools Pilot Partnership Project initially commented positively on this first PPP pilot project. However, in light of the recognition that the analysis contained errors subsequent analysis suggested that PPP was between 13% and 19% more expensive than conventional procurement, with relatively little risk transfer to the private sector. The C&AG concluded that it was too early for a comprehensive comparison of the economy, efficiency and effectiveness of the school PPPs (Comptroller and Auditor General, 2004, p.11). Also mentioned in this section was that the Department of the Environment preferred PPP in the water services sector and decided to proceed with PPP procurement even though the estimates worked in favour of traditional procurement (Reeves, 2013a). Despite problems, there was evidence of some success, as exemplified by a post-project review of the Criminal Courts of Justice PPP where a 2008 C&AG report verified 6% lower costs for the PPP (Irish Business and Employers' Confederation, 2011).

On risk transfer and the quality of PPP projects in Ireland, the senior economist noted that the small population of the country meant road projects in particular continued to suffer from poor estimates of demand risk, with the government frequently accepting all of the downside risks without benefiting from potential upside risks. The literature supports this when discussing the implementation of a dedicated formal risk framework not "guaranteeing effective patterns of risk assessment and management" (Asenova et al., 2007, p.290). At the time of the pilot study there was mixed evidence of value for money and risk transfer being achieved, with some projects performing within or above expectations and others being problematic.

(9) Pilot study: Implementing independent oversight of project development and execution

At the time of the pilot study it was noted that regulatory oversight of Irish PPPs was problematic. Responsibility for water services and water/wastewater PPPs transferred to the state-owned utility Irish Water in 2014. The C&AG does not audit the accounts of commercial state companies and subsidiaries. The Commission for Regulation of Utilities has responsibility for regulating water and reviewing Irish Water's underlying costs of provision

of water and wastewater services[8]. Whether this will involve the publication of information on PPPs is unclear.

As statutory financial adviser the NDFA, has responsibility for the procurement of PPPs in sectors other than transport, local authorities and the direct procurement of certain education projects (Comptroller and Auditor General, 2013). It performs its functions through the National Treasury Management Agency, and, while its fees and expenses are audited by the C&AG, the auditor does not oversee procurement decisions nor publish performance monitoring results of the NDFA.

At the time of the pilot study this suggested a high degree of fragmentation in the regulatory oversight of Irish PPP.

4.3.2.2 Conclusions from the pilot study

The pilot study examined the impact of adoption patterns on the sustainability of PPP in post-crisis Ireland. The findings suggested that policy transfer was initially largely voluntary, although specific elements of implementation, such as limits on transparency on account of commercial sensitivity, were perceived as coercive by the study interviewees. This coercive element was largely attributed to industry expectations which had developed within the UK PFI market. For the pre-crisis period, government announcements seem to indicate that PPP was seen as a means of catching up with modern procurement methods as practised in other English-speaking countries such as the UK, where ministers were keen to introduce what they saw as innovative, entrepreneurial business values into public services (Weaver, 2003). Ireland's 2003 PPP policy framework closely mirrored the earlier UK Green Book. The pilot project suggested that PPP ceased to be a voluntary option, being instead perceived as an economic necessity. This seems to have given rise to the accelerated development of a supportive legal framework and enabling measures.

Regarding the nine factors, there was evidence of the development of a supportive and comprehensive legal framework that is widely utilised as well as strong political commitment by government. This also applies to improvements in public sector PPP skills which benefited from the establishment of the central PPP policy unit in 1999 and the creation of the NDFA.

More mixed results were observed in the efforts to gain buy-in from key constituents. Buy-in seems to have been fairly broad in the early stages, with support being articulated by the employers' association, industry bodies and trade unions. By the mid to late 2000s this

[8] https://www.cru.ie/home/about-cru/what-we-do/

had partially eroded, with trade unions and community groups voicing concerns over inadequate consultation.

Another problem was the coordination of deal flow. Both Ireland and the UK suffered from delays in contract awards and financial closure, haphazard bidding processes (resulting in high costs and losses to bidders) and uneven demand. Efforts were made to address this in Ireland in 2013, with measures aimed at instilling confidence and maximising market participation in PPP following the UK's PF2 reform package.

The pilot study found that the lack of frameworks for ensuring PPP quality appeared to be the most significant institutional barrier to the sustainability of Irish PPP. This concerns objective and systematic value for money evaluations of existing and future deals, which were hampered by fragmentation and a lack of detailed cost and return data which allegedly arises from the commercial confidentiality needs of private sector interviewees. Uncertainty about risk allocation between partners and the costing of risk transfer seemed to affect adversely the accuracy and reliability of value for money calculation.

The pilot study highlighted major difficulties in the sustainability of Irish PPPs arising from lack of transparency and poor oversight. Documentary evidence, literature evidence and interviews highlighted problems in obtaining financial data on operating costs and profits which would allow for a thorough assessment of existing and future projects. The results of the pilot study when plotted onto the "Patterns of PPP Adoption Framework" (see *3.3.3 Patterns of PPP Adoption Framework*) suggested that Ireland exhibited somewhere between quadrant (3), voluntary policy transfer and weak institutional capacity building; and quadrant (4), coercive policy transfer and weak institutional capacity building, the least sustainable PPP environments. Although, the evidence base of the pilot study was limited, as only three interviewees were involved in the study, it strongly suggested the value of a further examination of the sustainability of PPP in Ireland. The results of the pilot study accordingly informed the extended study and are referred to in chapters 5 and 6, the data analysis chapters.

4.3.3 The Extended Study

In 2016, the initial study was extended further to include more interviewees from the public sector, the private sector and the civic sector. This allowed for flexibility in approaching different respondents while still covering the 19 themes of the Jooste et al. (2009) framework[9]. Interviews allow the researcher to "generate deeply contextual, nuanced

[9] Increasing public awareness and understanding of PPPs; developing a market of private providers; providing government support for private providers; keeping line agency discretion in check; monitoring behaviour of

and authentic accounts of participant's outer and inner worlds, that is, their experiences and how they interpret them" (Schultze and Avital, 2011, p.1). In this research additional semi-structured interviews were conducted which allowed the researcher to ask open-ended questions. This enabled interviewees to allow the direction of the interview to go to areas of importance to them and this is in line with the recommendations of Quinlan et al. (2015). Semi-structured interviews allow the researcher to compile a list of questions or topics which help to guide the interviewer through the interview but still allows the interviewee scope to answer as they would like (Bryman, 2008). They also allow the interviewer to pick up on topics mentioned by the interviewee which allows a great deal of flexibility (Bryman, 2008). However, a limitation to this approach is that there is a possibility

In this study the interview questions were based on the themes in the Jooste et al. (2009) framework which had proven themselves as highly relevant in the pilot study. Nine of these themes were used to develop the questions in the pilot study, and after the remainder of the questions were developed, a set of interview questions were prepared which were appropriate to the public sector and adapted for the civic sector (see Appendix C). A further set of questions were developed which were appropriate to the private sector (see Appendix D). Questions were grouped under topic headings and this was in line with Bryman's (2008) recommendations that interview questions be formulated in a topic order to enable them to flow well. The interview questions for the extended study were piloted with two members of the public sector with an interest in the private sector involvement in public services. This process was aimed at identifying ambiguities, helping to clarify the wording of questions and permitting early detection of necessary additions or omissions. These interviews were not recorded and only notes pertaining to improving the questions or clarifying wording were taken. The discussion arising from these two interviews were not included in the extended study.

As the interview process continued, the researcher became more experienced in asking questions and relied less on the interview questions and instead introduced the themes laid down by the Jooste et al. (2009) framework as a means of opening up the conversation on PPP in Ireland. Bryman (2008) discusses the limitations of interviewing and states that the interviewer may ask leading questions. In this research, care was taken to avoid asking

private providers; increasing programme accountability; ensuring management support to public sector agencies on specific projects; ensuring the PPP projects promote the public interest; ensuring fairness of PPP procurement; improving environmental performance of projects; supportive legal framework; political commitment; buy-in from key constituents; good public sector knowledge of PPPs; a PPP unit; measures to coordinate deal flow; programme transparency; ensuring the quality of projects and implementing independent oversight.

leading questions during the interview process. This ensured a level of reliability and consistency of interview questions across all interviews. Arsel (2017) discusses another limitation of interviewing and writes that some interviewees may feel marginalised or in a lower power position than the interviewer and this may deter them from freely talking. In this research, care was taken to reassure interviewees that their identities would be anonymised and any quotes used could not be traced back to them.

Participants were selected using purposive sampling and attendance at PPP conferences in 2013, 2015 and 2016 which involved public and private sector PPP actors enabled a database of potential interviewees to be developed. A limitation of interviewing is that the researcher may interview only certain people of "high status" (Myers and Newman, 2007, p.5). Rigour was introduced into the interview process in this research by ensuring that a representative sample of a wide range of PPP participants from the public sector and private sector were approached. However, due to time constraints, only a limited number of civic sector participants could be approached. All potential interviewees were sent an email which included an outline and a statement of the purpose of the research, including the 19 themes upon which interview questions were based and a copy of the consent form. Some emails were followed up with telephone calls. Bryman (2008) recommends that interviews take place in a quiet setting and in this study most interviewees agreed to be interviewed at their place of work which was a quiet office. However, the interview with P11 took place in a hotel and with P15 in his work restaurant, both venues were quiet and there was no background noise interference on the recordings. Twenty four interviewees were interviewed for the extended study and data was collected through other correspondence such as emails and telephone conversations (see Table 4.2). Twenty three of these interviewees agreed to be digitally recorded. P23 declined to be digitally taped and it was decided not to use their data in this study. The notes made at this interview were subsequently destroyed. This is discussed further in the data analysis section (see *4.4.1 Data analysis used in this research study*). Field notes were kept in the form of jotted notes after each interview. These assist in jogging the researcher's memory about events, impressions and feelings to provide a rich understanding of the interview (Bryman, 2008).

Table 4.2: Interviewee attributes						
Interviewee	**Experience of PPP**	**Gender**	**Participant Type**	**PPP Sector**	**Stage of PPP**	**Interviewed**
P1	More than 15 years ago	Female	Private Sector	Transport	First Stage - Pilot project	January 2016
P2	in the last 5 years	Male	Public Sector	Justice	Third Stage - Post-crisis	February 2016
P3	More than 15 years ago	Male	Public Sector	Transport	First, second and third stages	February 2016
P4	Between 5 and 10 years ago	Male	Public Sector/former Union	Not Applicable	Second Stage - Pre-crisis	February 2016
P5	in the last 5 years	Male	Public Sector	Education	Third Stage - Post-crisis	February 2016
P6	Between 5 and 10 years ago	Female	Private Sector	Not Applicable	First and second stages	February 2016
P7	Between 11 and 15 years ago	Male	Public Sector	Justice	Second and third stages	February 2016
P8	More than 15 years ago	Male	Public Sector	Senior PPP decision-maker	First, second and third stages	March 2016
P9	Between 11 and 15 years ago	Male	Public Sector	Environment	First, second and third stages	March 2016
P10	Between 5 and 10 years ago	Female	Private Sector	Convention Centre	Second Stage - Pre-crisis	March 2016
P11	Between 11 and 15 years ago	Male	Private Sector	Justice	Second and third stages	April 2016
P12	Between 5 and 10 years ago	Female	Private Sector	Education	Second and third stages	May 2016
P13	Between 11 and 15 years ago	Male	Private Sector	Not Applicable	Second and third stages	May 2016
P14	Between 11 and 15 years ago	Male	Private Sector	Not Applicable	Second and third stages	June 2016
P15	Between 5 and 10 years ago	Male	Public Sector	Justice	Second and third stages	June 2016
P16	in the last 5 years	Male	Private Sector	Primary Care	Third Stage - Post-crisis	July 2016
P17	Not Applicable	Female	Civic Sector/Union	Education	Not Applicable	July 2016
P18	Between 5 and 10 years ago	Female	Private Sector	Primary Care	Third Stage - Post-crisis	August 2016

Table 4.2: Interviewee attributes						
Interviewee	**Experience of PPP**	**Gender**	**Participant Type**	**PPP Sector**	**Stage of PPP**	**Interviewed**
P19	More than 15 years ago	Male	Private Sector	Education, Justice and Primary Care	First, second and third stages	September 2016
P20	Not Applicable	Male	Civic Sector/Union	Education	Not Applicable	November 2016
P21	Between 5 and 10 years ago	Male	Public Sector	Education	Second Stage - Pre-crisis	November 2016
P22	Between 5 and 10 years ago	Female	Public Sector	Primary Care	Second and third stages	December 2016
P23	in the last 5 years	Male	Public Sector	Education	Third Stage - Post-crisis	December 2016
P24	Between 5 and 10 years ago	Male	Private Sector	Education and Justice	Second and third stages	January 2017

After the interviews were completed interviewees were sent an email thanking them for their participation and they were also sent a scanned copy of the signed consent form for their records. At the request of one interviewee, a senior public servant involved in PPP decision-making (P8), a copy of the interview transcript and use of their quotes in the data analysis was sent to them in March 2018 for approval. This was granted by this interviewee in April 2018.

Interviewees were asked if could they recommend other individuals who should be approached, and in some cases they helped initiate contact. This "snowball sampling" effect (Bryman, 2008, p.184) ensured a wide range of key PPP actors were identified and approached. Interviewees were assured of the confidentiality and anonymity of their interviews and all names and other identifying information were removed. Interviewees were given an identifying code consisting of "P" for participant and a unique number before being transcribed. Interviews lasted between 1 hour and 1.5 hours and were outsourced to be transcribed verbatim by a transcription service. This was performed by the same person for consistency and amendments were made as appropriate. The transcripts of interviews were compared with the interview recordings to check for accuracy and consistency. Interviewing ceased after a saturation point was reached when no new insights were being generated. Interview data generated was stored safely on a secure network.

During the extended study a more in-depth document analysis than had taken place with the pilot study was carried out. Documents and literature which were included in the pilot study were reviewed again for more in-depth insight and were augmented with further

documents and also more recent literature. Appendix B lists the documents used in the extended study. This triangulation of data sources gave "valid insight" (Quinlan et al., 2015, p.162) into PPP in Ireland as it allowed the cross-checking of facts, figures and dates given by interviewees against an original sources.

4.4 Data Analysis

The analysis of interview data utilised thematic analysis which has its origin in content analysis (Braun and Clarke, 2016; Joffe, 2011). No particular individual or groups can claim to have developed thematic analysis which is unlike other qualitative approaches (Braun and Clarke, 2016) and there are now a number of sets of procedures for and approaches to thematic analysis, for example, Boyatzis (1998), Guest et al. (2011), Joffe (2011) and Braun and Clarke (2006).

Thematic analysis is particularly useful explaining the specific nature of a group's conceptualisation of the phenomenon under study (Joffe, 2011) and it allows for "identifying, analysing and reporting patterns or themes within the data" (Braun and Clarke, 2006, p.79) which can provide a rich and detailed account of the data (Vaismoradi et al., 2013). This method of data analysis has been used by previous policy studies such as Brady and Curtin (2012) and O'Dolan and Rye (2012) and was deemed appropriate by this researcher. Thematic analysis can "be flexibly applied within any of the major ontological, epistemological and theoretical frameworks underpinning qualitative research" from "from realism … to social constructionism" (Braun and Clarke, 2016, p.87). This study has adopted a critical realist approach and as it fits in with Braun and Clark's (2016) definition just mentioned, it was decided that the data generated in this study would be analysed using thematic analysis in line with Braun and Clarke (2006).

Thematic analysis can be used "both inductively and deductively" (Braun and Clarke, 2016, p.89) and the combination of a deductive and inductive approach has been described as central to contemporary qualitative research (Joffe, 2011). Pure induction is not possible because qualitative analysis is always guided by the researcher's philosophical standpoint and analysis can be deductive in "the sense that existing theories and concepts provide a lens through which to read and interpret the data" (Bruan and Clarke, 2016, p.89).

Thematic analysis does have limitations or "pitfalls" that the researcher needs to avoid (Braun and Clarke, 2006, p.94). First, the researcher can fail to actually analyse the data at all. Second, the researcher can fail to carry out analytical work to identify themes or "make sense of the patterning of responses". Third, the research can make a "weak or unconvincing

analysis" (Braun and Clarke, 2006, p.94). This can be avoided by rigorous coding to identify if themes are more "data-driven" or "theory-driven" (Braun and Clarke, 2006, p.83). If the process of coding data is about trying to fit it into a coding frame, this is a form of inductive analysis and is said to be data-driven. If the process of coding data is driven by the researcher's theoretical interest, the coding is thought to be more theory-driven. Researchers can code for a specific research question or a research question "can evolve through the coding process" (Braun and Clarke, 2006, p.84). There is little point in conducting qualitative work if one does not want to draw on naturally occurring themes evident in the data (Joffe, 2011), and in this research, deductive elements based on the themes outlined in the Jooste et al. (2009) framework were utilised while more natural themes were also allowed to present themselves from the data. This allowed a comparison in the writing up stage with previous findings to highlight results that did not match up with previous findings.

A large amount of data was generated during the extended study and Nvivo 11 software was used to organise the data for data analysis purposes. Nvivo software was developed in 1999 and was called NUD*IST. Nvivo is a qualitative data analysis software package that allows researchers to store and retrieve qualitative data (Bazeley, 2009). It allows the researcher systematically to analyse data of all forms through the use of a database. This introduces rigour into the data analysis exercise and allows the researcher to search the data, run queries and reports and examine relationships. There is precedence in using Nvivo in policy studies where interviews were used to gather data (Brady and Curtin, 2012; Burke and Demirag, 2015). There is criticism, however, of using software to analyse data as it creates a barrier between the researcher and the data and limits their ability to manipulate the data. The researcher may overly rely on the software to analyse the data and fail to interpret the data in a meaningful way, thereby failing to introduce rigour into the analysis process (Jackson et al., 2018). By using a robust method of data analysis such as thematic analysis in conjunction with Nvivo software, the researcher in this study followed steps laid down by Braun and Clarke which are visible and supported by an audit trail, thus introducing rigour into the analysis process.

In line with Braun and Clarke (2006), phase one of thematic analysis is to focus on gaining familiarity with the data. This involves reviewing interview transcripts and checking them against recordings for errors and omissions and making any necessary corrections. The researcher may have expectations about codes they may wish to develop particularly if they have collected the data themselves. However, looking for codes without being familiar with the data may lead to "analytic leaps being made prematurely" (Terry, 2016, p.106). Instead

the researcher should familiarise themselves with the data continually before coding (Terry, 2016) and make notes of elements of interest while beginning to think about wider implications and assumptions and what they may mean (Braun and Clarke, 2016).

Phase two of thematic analysis involves generating initial codes. Most analyses contain elements of both semantic and latent coding (Braun and Clarke, 2016). In thematic analysis, the coding of interviews involves a simultaneous examination of the semantic and latent levels of meaning. At the semantic level, the researcher codes what the interviewees were saying, and at the latent level, a search for implicit ideas is conducted while interpreting what the interviewees are saying. In practical terms, the process of coding requires the researcher to tag each segment of data with a code as he or she sequentially works through the data set. Every time something of interest is identified in the data, the researcher decides whether to use an existing code or to create a new one (Braun and Clarke, 2016).

Phase three of thematic analysis involves searching for themes. A code relates to "a very specific aspect of the data while a theme identifies a general patterning of meaning" (Braun and Clark, 2016 p.93). The researcher will detach from the detail of the data and will try to identify patterns in the data (Braun and Clarke, 2016).

Phase four involves a review of potential themes "in relation to codes and the data extracts associated with them and exploring whether the themes work in relation to the entire data set" (Terry, 2016, p.112). At this stage some themes may be rejected, divided into two, combined, further refined or a mixture of all of these (Braun and Clarke, 2016). It is important to that the themes are a suitable fit with the data and that they ultimately answer the research question (Braun and Clarke, 2016).

Phase five involves defining and naming themes. This assists in helping the researcher to write "an analytic narrative" around the data extracts to inform the reader what the researcher believes is taking place in the data (Braun and Clarke, 2016, p.97). Data extracts which provide "clear, compelling and vivid illustrations" of the issue or point that is being demonstrated should be used (Braun and Clarke, 2016, p.97). At this point theme names are finally decided upon and theme definitions may also be provided (Braun and Clarke, 2016).

Phase six of the data analysis focuses on producing the written report. Notes and extracts from interviews are combined to demonstrate the themes which is produces an argument to answers the research question (Braun and Clarke, 2016).

4.4.1 Data analysis used in this research study

In line with phase one of thematic analysis, familiarity with the data in this study was gained by checking interview transcripts against recordings for errors and omissions and correcting where necessary. After this phase was completed, an interview folder was created in Nvivo which included imported interview transcripts. Folders were also created for literature and key policy documents, Dáil Éireann committee transcripts and reports, government department reports, Comptroller and Auditor General reports, business and union reports and UK PFI documents (see Appendix B) purely to allow for the easy retrieval of such documents as the analysis progressed.

Phase two of thematic analysis involved generating initial codes. Coding depends on whether the themes are more "data-driven" or "theory-driven" (Braun and Clarke, 2006, p.88). As the data was approached with "specific questions in mind" (Braun and Clarke, 2006, p.89), based on the Jooste et al. (2009) framework and the findings of the pilot project, the work was largely theory driven and a thematic structure was kept in mind. Appendix E shows the generation of initial codes extracted from Nvivo. During phase two 513 initial codes were developed by deconstructing the data from its original chronology into a set of non-hierarchical codes. The coding of interviews involved a simultaneous examination of the semantic and latent levels of meaning. At the semantic level, coding centred on what the interviewees were saying. At the latent level, a search for implicit ideas was conducted while interpreting what the interviewees were saying. A description was assigned to each code to ensure that the code remained consistent throughout the analysis.

Phase three of thematic analysis involved searching for themes. This begins when all of the data has been coded and then continues with sorting codes into potential themes by trying to identify patterns in the data (Braun and Clark, 2006). As discussed earlier the Jooste et al. (2009) framework and the findings of the pilot project were kept in mind in this phase and the 513 codes generated in phase two were mapped to 21 categories of codes outlined in Appendix F.

Phase four involved a review of potential themes by breaking down the now reorganised categories into sub-themes to better understand their meaning. Here the 21 categories of codes were examined and, in line with existing literature discussed in *3.3.2 Measuring PPP success and sustainability*, were grouped under the sub-themes: legitimacy, trust, capacity and others. Appendix G shows how the data analysis involved the grouping of categories of codes into sub-themes.

Some sub-categories such as transparency, fairness of PPP procurement, the National Development Finance Agency (NDFA) and the performance of PPPs were categorised under different sub-themes in the literature, so a decision was made to place these broader themes under main themes based on the content of the interviews. This occurred with "transparency" and the "NDFA" which was placed under "Legitimacy", "coordinate deal flow" and "performance of PPP" were placed under "Capacity" and "fairness of PPP" was placed under "Trust" (see further detail in Appendix H). For example, in the literature Matos-Castaño (2011) categorise "transparency" under the theme of trust but Matos-Castaño et al. (2012), Jooste et al. (2009), Matos-Castaño et al. (2014) and Verhoest et al. (2015) categorise it under the theme of legitimacy (see Appendix H). However, interviewees spoke of transparency surrounding the decision to go down the PPP route, transparency of the bidding process, transparency issues surrounding publication of PPP contract information and transparency of PPP reviews and benchmarking. These issues increase or reduce the level of legitimacy given to PPPs. If there is a weakness in transparency, it creates a culture of suspicion and uncertainty (House of Lords, 2010), and legitimacy will suffer. This point is examined in *5.3.2.1 Transparency*. Therefore, it was decided to put transparency under the broader theme of legitimacy. A similar approach was adopted with the other sub-themes discussed above.

Phase five involved defining and naming themes to conceptually mapping and collapsing categories into a broader thematic framework outlined in Appendix I. At this point the four sub-themes and their categories of codes were defined, renamed and numbered into three main themes: legitimacy, trust and capacity. For example, under the theme of Legitimacy there were six categories of codes (see Appendix G): transparency, regulatory framework, NDFA, Political commitment, Stakeholders and Types of projects. The NDFA was defined and numbered as *5.3.1 Lead Institutional Support*; Regulatory Framework, Transparency and Political Commitment were defined and numbered as *5.3.2 Political support*; Stakeholders was defined and numbered as *5.3.3 Stakeholder consent* and Types of Projects were defined and numbered as *5.3.4 Project portfolio*. This was repeated for *Theme 2 Capacity* and *Theme 3 Trust*. Priority in the coding structure was given to themes in no particular order. However, as *Theme 1 Legitimacy* and *Theme 2 Capacity* were larger in terms of text blocks these come before *Theme 3 Trust* in the coding structure. This approach is in line with the interview data driven structure of the PhD. The sub-theme called "others" did not answer the research questions at this stage so a decision was made not to use it further in the data analysis.

It should be noted that there is an overlapping of themes and this runs throughout the data analysis in chapters 5 and 6. For example, in *5.3.1 Lead Institutional Support*, there is a discussion of the role of the NDFA as a market driver and how initiatives were brought in to support the market as a reaction to the financial crisis. This overlaps with *6.2.1 Methods to encourage market demand*, which further analyses the effect on the market of these initiatives. This proves to strengthen the overall analysis of the study as it allows results to be cross-referenced. This occurs regularly in the data analysis and is signposted to the reader.

The theme of Trust was an issue of concern for the researcher as it only yielded three broader themes: *6.3.1 PPP programme accountability*, *6.3.2 Fairness of PPP procurement* and *6.3.3 Complaints and arbitration*. The reason for this could be down to the methodology used in this study. Jooste et al. (2009) suggest that trust is of importance to the "civic sector" which they define as those who have local interests at heart such as the users of the assets, local residents, taxpayers and civic organisations. The extended study did include interviews with trade unions but with no other "civic sector" groups and the main focus was on interviews with the public sector and private sector (see *5.3.3 Stakeholder consent*).

In Appendix I it can be seen that *Theme 3 Trust* had only 366 blocks of text attached to it while *Theme 1 Legitimacy* had 3527 and *Theme 2 Capacity* had 3615. As a result, the main focus of the research was on *Theme 1 Legitimacy* and *Theme 2 Capacity*. For ease of analysis *Theme 3 Trust* was added on to the data analysis in chapter 6 and does not have a dedicated chapter.

Appendix I also refers to the 27 data sources used in the data analysis. These include:

- One interview (P1) with a private sector interviewee which was included in the pilot study only
- Twenty three interviews carried out with interviewees which were initially included in the data analysis (P2 to P24). The data gathered from one of these interviewees (P23, 2016) was not used. This interviewee did not want to record the interview, they had a minute-taker in the room and they wanted editorial control over the use of their data. Their data did not add any further information to the study so, for expediency, it was decided to leave them out of the analysis.
- An email from an interviewee who was later interviewed and with the interview being included in the twenty three interviews discussed above (P9, 2016)

- Written notes from a telephone conversation with an interviewee who was later interviewed, with interview data again being included in the twenty three interviews discussed above (P15, 2016)
- An email received form an interviewee which was not used in the data analysis

Phase six of the data analysis centres on producing the written report by "weaving together all your analytic notes and extracts you have selected to illustrate the themes into an argument that answers the research question" (Terry, 2016, p.115). In this study, analytical memos were used to conduct a systematic review of the thematic framework developed in phase five to analyse, report and ask questions of data. Memos were used to reduce the data from a series of nodes, otherwise known as codes, to a series of documents explaining the outcomes of the analysis of the nodes. Appendix J is an example of an analytical memo used to summarise the findings of notes and extracts from interviews under *6.2.2 Policy learning*. This was combined with the relevant literature to illustrate the themes and produce an argument that answers the research question. Appendix K is an example of an annotation made during phase six which recorded the researcher's thoughts during the data analysis process.

As discussed in *4.3.1 Case study design*, the focus of the research is on the evaluation of the sustainability of the PPP policy in Ireland, and three distinct points in time have been identified:

- Stage 1 (Pilot projects 1999 – 2002);
- Stage 2 (Pre-crisis 2003 – 2008); and
- Stage 3 (Post-crisis 2012 onwards)

In chapters 5 and 6 the stage which the interviewee is referring to is discussed where relevant.

4.5 Validity and reliability of the research design

Issues of validity and reliability are considered differently in qualitative and quantitative research (Quinlan et al., 2015). The terms have a different analytical meaning but they are related to each other as reliability is presumed for validity. If a measure is not reliable, it cannot be valid (Bryman, 2008). In a positivist approach to research, which is largely quantitative, findings are measurable. In contrast, with postpostivism, which is suited to a qualitative perspective, reality is subjective, it has multiple layers and is constructed by

individuals (Crossan, 2003), which can make it difficult to measure. Many researchers, therefore, believe that the terms "validity" and "reliability" do not fit well into qualitative research as they suggest measures which are quantifiable (Bryman, 2008). However, the terms validity and reliability have been adapted for use in qualitative research (Bryman, 2008). Some writers use the term "rigour" as an alternative to "validity", and the terms "credibility, dependability, confirmability and transferability" are commonly used to measure rigour in qualitative studies (Vaismoradi et al., 2013, p.403). Other writers use alternatives to validity and reliability such as trustworthiness (consisting of credibility, transferability, dependability and confirmability) and authenticity to evaluate qualitative research (Guba and Lincoln, 1994).

In this research, efforts were made to introduce rigour at all stages throughout the research process. Rigour, for example, was introduced by ensuring that the research was traceable through the use of an audit trail kept of research decisions made during the process. Detailed records were made of the selection of interviewees, and field notes were kept during the interview process to record the reflections of the researcher. Interview tapes were uploaded onto a secure network and each given a unique code to ensure the anonymity of interviewees. This coding protocol was carried through from the interview tapes to the transcripts of interviews and the uploading of the same into Nvivo to ensure a complete audit trail of the data. Data analysis decisions were noted and decisions made were recorded through the different phases completed during the Nvivo stage and the write-up stage. Thematic analysis was used to give a balanced view of the data rather than attaching too much importance to the frequency with which codes occur in the data.

The credibility of findings were checked by presenting at conferences (see Appendix R) and through the publication of findings from the pilot project as a chapter in an edited book on international PPPs (see Sheppard, 2016) and in a peer-reviewed journal (see Sheppard and Beck, 2016) (see Appendix S). Transferability was bolstered through the combining of theories which adds rigour to the research process (Yazan, 2015), as well as by building a theoretical framework based on the established theories of policy transfer theory and institutional theory. Multiple layers of inquiry into the sustainability of PPP were explored using the themes laid down in the Jooste et al. (2009) framework.

An extensive understanding of PPP policy was attained by interviewing multiple stakeholders from the public and private sectors, who hold different positions within these sectors and who are also from different PPP sectors. This added rigour by ensuring that the results of the research were confirmable. During the data analysis stage the development of

themes was supported by excerpts from data to ensure that data interpretation remained linked to the words of the interviewees, thus ensuring interpretative rigour. This helped to safeguard that the researcher was objective and acted in good faith in the interpretation of the data.

4.6 Conclusion

This chapter provided a detailed description and justification of the research methodology adopted in this study to answer the research questions. First, the research philosophy underpinning the design of the project was discussed. The design of the study was then explained, as was how the results of the pilot study informed the development of the extended study. Then the application of the data analysis method used in the study was mapped out. Finally, the question of research validity and reliability was discussed and the approach used in this study was described. The research methodology chosen in this chapter is implemented in chapters 5 and 6 to answer the research questions identified in this study.

Chapter 5 – Theme 1: Legitimacy

5.1 Introduction

Chapter 5 demonstrates the research methods applied in this study and their outcomes using the method of data analysis outlined in chapter 4. The data collected during the extended study was analysed in line with the institutional theory and policy transfer theory which underpin this study. As discussed in chapter 4 the thematic analysis of this study focuses on generating data on themes of legitimacy, capacity and trust. Chapter 5 concentrates on examining theme 1, the legitimacy of PPP and its contribution to the sustainability of this policy. *Theme 2 Capacity* and *Theme 3 Trust* are analysed in chapter 6.

The analysis evaluates data gathered from the extended study in relation to policy transfer theory, which was outlined in detail in the literature review of chapter 3. Accordingly, policy transfer can increase the effectiveness of government operations (Marsh and Sharman, 2009) and help organisations gain legitimacy (Connolly et al., 2009). Research has found that cross-national policy transfer is not necessarily "rational, mechanical or automatic" as policy-makers operate within "bounded" contexts due to poor resources, unclear objectives and weak understanding of "imported policies" (Dolowitz and Medearis, 2009, p.686). This has led to the introduction of further refinements where policy transfer has been described as voluntary or coercive (Dolowitz and Marsh, 1996). As regards coercive policy transfer, the literature distinguishes direct and indirect coercive forces (Dolowitz and Marsh, 1996). Research has found that a country can be indirectly pushed towards policy transfer if political actors perceive it as falling behind neighbours or competitors (Keating et al., 2012). It has also been found that, where there are similarities in policy between countries explained by policy transfer, there may also be policy learning (Keating et al., 2012). Overall, the literature on policy transfer tends to be "process oriented, focusing on how, when, and why adopters use diffused information rather than on networks or patterns of diffusion" (Mossberger and Wolman, 2003, p.429). The Dolowitz and Marsh (1996 and 2000) framework reflects this process focus and elements of it has been used in this research to analyse PPP policy transfer in Ireland.

The analysis also relies on institutional theory in the analysis of data gathered from the extended study with institutional theory, which was outlined in chapter 3. Institutional theory assumes that pressure to conform to a set of expectations is exerted by external and internal influences. When external and internal expectations are successfully negotiated, an organisation gains legitimacy and is able to "secure access to resources" and ultimately

ensuring its long-term survival (Brignall and Modell 2000, p.288). In this context it has been argued that organisational structure, policies and procedures stem from social expectations and "myth" about what is socially and economically acceptable, such as private sector efficiency (Khadaroo, 2005, p.72), which are rationalised and gain legitimacy (Brignall and Modall, 2000; Dimaggio and Powell, 1983).

In the context of PPP institutional theory suggests that more sustainable PPPs were ones where the government understood the complexity of PPP and where institutional capacity was built. Following this lead, this research builds on institutional theory to examine the legitimacy, capacity and trust of PPP in order to evaluate whether institutional capacity has been created around Irish PPPs. This will in turn ensure the sustainability of this policy, which is in line with a similar framework proposed by Matos-Castaño et al. (2012) and Jooste et al. (2009). Specifically, this study utilises the Jooste, Levitt and Scott (2009) theoretical framework for the actions needed to ensure the sustainable implementation of PPP. This framework is particularly helpful as it gives an indication of the tasks for the successful development of a PPP programme. The framework identifies 19 themes[10] to describe prerequisites for the successful development of a PPP programme and groups them under the three main objectives of a successful PPP implementation: building capacity, obtaining legitimacy and balancing interests. However, other researches use the term trust instead of balancing interests (Matos-Castaño et al., 2012; Verhoest et al., 2015) which indicates that these classifications are to some degree fluid.

5.2 Data analysis

Chapter 4 outlines the data analysis approach taken in this research. Thematic analysis in line with Braun and Clarke (2006) is utilised in conjunction with Nvivo software. The steps taken in analysing the data are outlined in *4.4.1 Data analysis used in this research study*. This chapter continues with section 5.3 which is devoted to the analysis of *Theme 1 Legitimacy*. This is sub-divided into *5.3.1 Lead Institutional Support*, *5.3.2 Political support*, *5.3.3 Stakeholder consent* and *5.3.4 Project portfolio*.

[10] Increasing public awareness and understanding of PPPs; developing a market of private providers; providing government support for private providers; keeping line agency discretion in check; monitoring behaviour of private providers; increasing programme accountability; ensuring management support to public sector agencies on specific projects; ensuring the PPP projects promote the public interest; ensuring fairness of PPP procurement; improving environmental performance of projects; supportive legal framework; political commitment; buy-in from key constituents; good public sector knowledge of PPPs; a PPP unit; measures to coordinate deal flow; programme transparency; ensuring the quality of projects and implementing independent oversight.

5.3 Theme 1 Legitimacy

Appendix I shows the thematic framework which is reflected in Table 5.1. This table shows how the theme *5.3.2 Political support* was further analysed and this will be explained in that section. *Theme 1 Legitimacy* is analysed in the remainder of this chapter. Appendix L shows the process carried out in Nvivo of conceptually mapping codes to categories to themes for *Theme 1 Legitimacy*. The order of analysis is based on the number of text blocks identified against each sub-theme in the data analysis. The number of text blocks does not necessarily reflect the importance of the theme.

Table 5.1: Theme 1 Legitimacy		
Name	**Number of text blocks**	**Number of text blocks**
5.3 Theme 1 Legitimacy:		3527
5.3.1 Lead institutional support		990
5.3.2 Political support:		
- 5.3.2.1 Transparency	441	
- 5.3.2.2 Legal and regulatory framework	285	
- 5.3.2.3 Political commitment	226	952
5.3.3 Stakeholder consent		413
5.3.4 Project portfolio		1172

5.3.1 Lead Institutional Support examines the role of the PPP unit in providing support for PPP, provided by the NDFA in Ireland. In *5.3.2 Political support* is analysed in terms of the transparency of PPP, the legal and regulatory framework and political commitment to PPP. In *5.3.3 Stakeholder consent* focuses on stakeholder participation and consultation in PPP and *5.3.4 Project portfolio* examines whether there is an active portfolio of projects. In numbering these sections no particular priority was given to where they lie in the coding structure. However, this sequence reflects the theoretical framework of institutionalisation discussed earlier.

5.3.1 Lead Institutional Support

Chapter 3 examined the literature on institutional theory and noted that, in the context of PPP, the more sustainable PPPs were ones where governments understand the complexity of PPP and where institutional supports are built. The literature suggests that the role of the lead institutional support, also known as a PPP supporting unit or simply a PPP unit, is a prime means of creating institutional support. Matos-Castaño (2011) asserts that the existence of a PPP unit will increase the legitimacy of PPP by supporting a belief in the benefits and

value for money that private sector involvement will bring, in line with the projects procurement being transparent and consistent.

The PPP units are usually established by governments within existing ministries (Matos-Castaño, 2011) or within a national treasury department (Burger, 2009). The unit is a point of coordination, quality control, accountability and an information provider, it can be more active in some environments where it plays a direct role in managing PPP procurement and management, whereas in other PPP units it will only be an adviser (Matos-Castaño, 2011). It will also monitor and judge the affordability of a project and act as a regulatory body (Burger, 2009). Van den Hulk et al. (2016) describe an expanded role for PPP units which includes launching, supporting and evaluating PPP projects, providing guidelines and coordinating PPP activity across government departments.

In Ireland the National Development Finance Agency (NDFA) is situated within the National Treasury Management Agency (NTMA) and can be considered as a "dedicated PPP unit" as defined by Burger (2009, p.82). The findings of the pilot study outlined in chapter 4 indicated there were demands for the NDFA to take responsibility for PPP policy and a call for cross-departmental coordination of PPP activity. This indicated that the NDFA only partially fulfilled the functions of a PPP unit (Sheppard and Beck, 2016). However, when the pilot study was extended in 2016, this research found that the role of the Lead Institutional Support, the NDFA, was more involved than that had been suggested, initially by the literature.

A number of roles of the NDFA were identified during the main data analysis process within the Lead Institutional Support theme and these are outlined in Figure 5.1. This section focuses on their contribution to the legitimacy of PPP in Ireland. Some of the roles of the NDFA were already suggested by the literature, namely, adviser and expert, decision-maker, policy developer, promoter of policy, regulatory body and leader. Other roles described by the literature have been found to evolve during the interview analysis. For example, the NDFA's role of disseminator of knowledge, market consultant, and project driver has evolved to a market driver, and another role that of leader diminished in importance from originally stated in the literature, to supporter. The research also identifies a new role of the Lead Institutional Support as a bureaucracy. The analysis of 5.3.1 Lead Institutional Support: Roles of the NDFA is summarised in Figure 5.1.

Figure 5.1: **Lead Institutional Support: Roles of the NDFA**

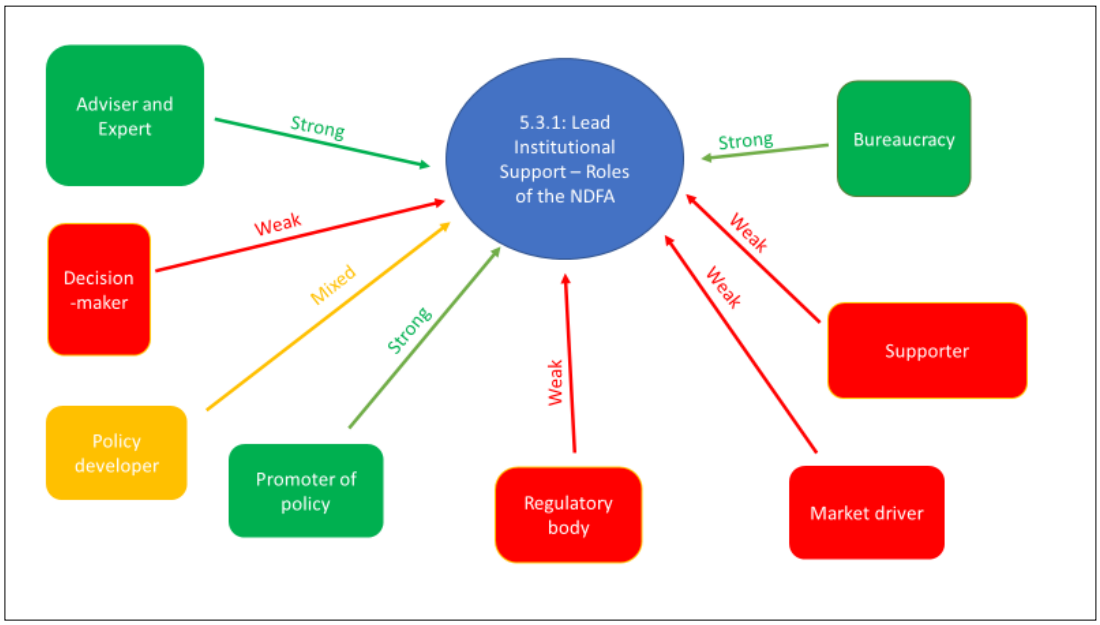


Figure 5.1 shows the varying degrees of the NDFA's involvement in each of the roles identified during the data analysis. For example, during the data analysis it became apparent that the NDFA exhibits a strong role as adviser and expert, promoter of policy and also as a PPP bureaucracy. However, it was also noted that it exhibits a mixed role as decision-maker, policy developer, regulatory and supporter of PPP. Its role as a market driver meanwhile is weak. Figure 5.1 visualises these patterns in graphic form with a view towards drawing the readers eye to the key issues identified in the data analysis. This approach is also deployed in *5.3.2 Political support*, *6.2.1 Methods to encourage market demand*, *6.2.2 Policy learning*, *6.2.3 Public sector expertise*, *6.2.4 Quality of projects* and an overall summary of the sustainability of PPP in Ireland. However, in other areas of the data analysis such as *5.3.3 Stakeholder consent* a different form of visual representation is employed in order to accommodate the nature of that data. In *5.3.4 Project portfolio*, *6.2.5 Coordination of deal flow*, *6.2.6 Performance of PPP*, *6.3.1 PPP programme accountability*, *6.3.2 Fairness of PPP procurement* and *6.3.3 Complaints and arbitration* no visual representation is used as a written description is sufficient to represent key findings for the data analysis.

In the context of *5.3.1 Lead Institutional Support* it is worth briefly examining the origins, organisational structure and staff structure of the NDFA. The National Development Finance Agency Act 2002 created the NDFA originally as an agency that reported to the Minister for Finance as the statutory financial adviser on capital projects in excess of €20 million. The agency is under the umbrella of the National Treasury Management Agency

(NTMA)[11] and it is divided into a Finance and Operations section and a Project Management section, as outlined in Figure 5.2.

Figure 5.2: Organisational Structure of the NDFA



Source: https://www.ndfa.ie/about/organisation-structure

The role of the NDFA was expanded with the National Development Finance agency (Amendment) Act 2007. This extended the functions of the NDFA to allow it to establish a Centre of Expertise for procuring PPP projects on behalf of State authorities. Through this legislation, the NDFA was allocated a new procurement function, giving the Agency the power to enter into PPP contracts with a view to transferring them to the relevant State authority, or to act as agents for State authorities in relation to PPP procurement.

The remit of the NDFA was again extended in September 2012 to allow it to provide contract management services in respect of PPP projects (National Development Finance Agency, 2012, p.9). Where contract management services are provided by the NDFA, the contracting authority generally retains responsibility for certain activities, such as approval and payment of invoices, approval of changes to the project agreement, issuing warning or termination notices to the PPP company, determination of benchmarking and market testing of "testable" services, and approval of changes to the ownership structure of the PPP company (Comptroller and Auditor General, 2013, p.132). This was at the request of the Department of Education and Skills as there were resources issues there and it was viewed that the NDFA had the necessary expertise and skills to manage PPP projects (Comptroller and Auditor General, 2013, p.132).

[11] http://www.ndfa.ie/about-the-ndfa/organisation-structure/

Verhoest et al. (2015) apply scores to 20 European countries, using a PPP Governmental Support Index (GSI) which uses a variety of indicators to measure the presence or absence of PPP supporting arrangements. One of these indicators measures the size of the PPP unit and awards the highest score to those that have 20 or more staff. The NDFA has more than 60 staff working in the organisation[12], an indication on the PPP GSI of governmental institutional support for PPP. The European PPP Expertise Centre (EPEC) noted that the NDFA has no difficulty in recruiting staff with PPP expertise (2014).

The NDFA will be merging with Transport Infrastructure Ireland (TII), at a date which is unknown at the time of writing. The TII carries out its own procurement of PPPs but uses the NDFA as financial adviser.

In the extended study conducted in 2016, concern was expressed by interviewees that merging the NDFA and TII may weaken the legitimacy of both agencies. For example, a public sector interviewee who is working on a stage 3 PPP project said:

> I'd have serious concerns about that because they are going to separate the financial from the project management and really you can't, the two things go hand in hand (P5, 2016)

Aziz (2007, p.926) states that it is essential that a PPP unit has knowledgeable staff who are "responsible for policy development, dissemination of PPP knowledge, and implementation of PPPs". The NDFA provides expertise and advice in the areas of PPP delivery and non-PPP delivery. The extended study indicated that a strength of the NDFA is its staff, as interviewees note in the following paragraphs.

The mobility of staff within agencies and the hiring in of additional expertise is seen by interviewees as strengthening the role of the NDFA. The senior public sector interviewee involved in PPP decision-making said that staff move within the NTMA (P8, 2016) and the public sector interviewee working on an Education project explained that expertise is supplemented by the hiring of consultants where needed (P5, 2016).

There is also mobility of staff between the NDFA and the private sector, as explained by an interviewee who formerly worked with the NDFA:

> NDFA staff all come from … banks and places … between private sector, public sector entities (P4, 2016)

Both interviewees from the public and private sectors saw mobility between the public and private sector as useful. It was seen by both sectors as allowing learning to take place

[12] http://www.ndfa.ie/about-the-ndfa/organisation-structure/

across projects. This was explained by a senior public sector interviewee involved in PPP decisions as follows:

> you'll see some of those people are leaving NDFA now and moving out into the private sector, they'll recruit others from the private sector, I think that's not a bad thing because I think if there's a constant flow of people you get people who have been closer to the market. If people are always in the NDFA they kind of get, become a bit removed from what's actually happening out there so it's probably not a bad thing if people move in and out (P8, 2016)

This was corroborated by a public sector interviewee who previously worked in the private sector who emphasised that there is staff movement, but not at the director or senior level (P14, 2016).

This mobility of staff between the private sector and the NDFA is also seen as a benefit by the private sector, as discussed by a private sector interviewee working on Primary Care projects:

> When people have crossed the board it's much easier because they understand the constraints, we understand theirs as well, we know that there's policies and there's certain political things that they need to be out for, that some things may not sound logical but that's the way it has to be and it worked I think (P18, 2016)

However, mobility of staff between the private and public sectors does lead to questions on how the public sector benchmark (PSB) and sensitive information held within the NDFA is protected when staff move. The PSB is a single monetary value that represents the full estimated cost, taking income and risks into account, of delivering projects using traditional public sector procurement. It is meant to ensure a like for like comparison of traditional procurement with the PPP method of procurement (Department of Education, 2018).

Concerns were voiced by a public sector interviewee who previously worked in the private sector, (s)he drew a question mark over how the PSB is protected if there is movement of staff between the private sector and the NDFA:

> If people move great … the more fluidity of movement you have the better, now how they protect … the public sector benchmark … is a separate story for another day (P14, 2016)

At senior governmental level there also seems to be uncertainty as to how the PSB is

protected when staff leave the NDFA. The senior public sector interviewee involved in PPP decision-making stated:

> I presume there must be clauses in contracts, gardening leave and all that kind of stuff (P8, 2016)

Using the data analysis method outlined in chapter 4, it was found that the NDFA was referred to most by interviewees involved in Justice, Education and Primary Care, the busiest PPP sectors. It is interesting that the NDFA was most spoken about by stage 2 and 3 PPP interviewees and least spoken about by stage 1 PPP interviewees. The probable reason for this is that even though the NDFA was launched in 2002 on a non-statutory basis (P4, 2016), and it only became a centre of expertise for procuring PPP in 2007 when its powers were expanded, which corresponds with stage 2 and 3 PPPs.

The literature suggests that having institutional capacity in the form of strong lead institutional support will contribute to the legitimacy of PPP. This research identifies the expected roles of the NDFA outlined in the literature such as adviser and expert, policy developer, regulatory body, decision-maker, promoter of policy, leader and disseminator of knowledge. However, the research also highlights a role that has evolved beyond the existing literature, that is, the role of disseminator of knowledge which has evolved to that of a market driver. The expected role of leader seems to deviate from the literature in that it has evolved into that of a supporter. The research also identifies a new role of the PPP unit as a bureaucracy. The following analysis will discuss the relatively greater complexity of the role of the NDFA as compared to that attributed to PPP units in the literature.

NDFA as a PPP adviser and expert

Burger (2009) asserts that the role of the PPP unit is to create a centre of knowledge and expertise that can provide advice and assistance to individual departments. Jooste (2010) extends the role to provide technical advice and support for projects. Van den Hulk et al. (2016) further extend this role to assert that the PPP unit should play a role in policy guidance and policy evaluation.

The extended study found that interviewees indeed saw the NDFA as a centre of knowledge and expertise and that it acts as a procuring adviser, financial and technical adviser to government departments and that it manages contracts over their life. For example, the role of the NDFA was described by a public sector interviewee working on Justice projects:

> they will explain what's behind everything and … advise us as to what their view is because that's part of their role, but we approve it or not as the case may be (P2, 2016)

The general consensus among the interviewees was that the NDFA is the expert in PPP. One private sector interviewee involved in Education projects made the point that if the NDFA did not exist, then the private sector would have to deal with individual departments, leading to a more fragmented approach (P12, 2016). The senior public sector interviewee involved in PPP decision-making supported this point:

> the NDFA obviously are the common factor with all of them … they are in all of the PPPs, so what they learn on one they can apply on the other ones as well (P8, 2016)

However, there were negative views regarding the NDFA from a PPP consultant who has worked on stage 1 and 2 PPP projects in Ireland. Ireland was viewed as needing a centre of excellence and they felt that the NDFA was not providing it (P6, 2016). It should be noted that the role of the NDFA, as discussed earlier, was extended in 2012 which corresponds to stage 3 PPPs and this interviewee only worked on stage 1 and 2. A private sector interviewee involved in bidding on the Grangegorman project, one of Europe's largest tertiary education PPPs, and who has worked on stage 1, 2 and 3 PPPs was also critical of the NDFA:

> they've just bitten off too much in trying to set up what the process should be (P19, 2017)

The NDFA does not have a role in the final decision. It is purely an adviser. This was emphasised by a senior public sector interviewee involved in PPP decision making:

> NDFA are advising them all along but the Departments are the ones that have to make the decisions (P8, 2016)

Burger (2009) states that the role of the PPP unit is to create a centre of knowledge and expertise, a role which has a positive effect on legitimacy. Despite some negativity towards the NDFA, the organisation does appear to play a strong role as a PPP adviser and expert and therefore contributes to the legitimacy of PPP. However, if taken in the context of the findings of *5.3.2.1 Transparency* where a lack of transparency surrounding the NDFA's value for money testing of projects is identified, it is clear that the true role of adviser and expert cannot be investigated.

NDFA as a decision-maker

Burger (2009) contests that a PPP unit should monitor and judge the affordability of a project, as would be the case in other countries. For example, in South Africa, the role of the

PPP unit is to protect the government against irresponsible commitments made by sponsoring departments (Dewulf et al., 2011).

Decisions regarding whether to proceed with PPP involve the calculation of value for money tests. The NDFA carries out these tests, and as part of this, is involved in the calculation of the PSB.

However, the affordability of PPPs is a matter for the procuring body, not the NDFA (Farrell Grant Sparks et al., 1998). The NDFA advises as to the likely success of a project procured through PPP and whether there is a market for it, but the decision is made by the sponsoring departments and the government. The NDFA does not decide on how much of a project or how many projects should be procured through PPP (Sean Burgess, NDFA, PAC, 13 December 2012). This pattern is in conflict with the role of the PPP unit suggested by Burger (2009).

The extended study found that within government departments there is confusion as to the exact role of the NDFA in the decision-making process. For example, the public sector interviewee involved in Justice projects explained that the NDFA had an involvement in the decision to proceed with the building and refurbishment of Garda stations through PPP:

> the NDFA assessment is that they are not suitable for PPP (P7, 2016) When asked about this the senior public sector interviewee involved in PPP decision-making said:

> > That's still in the plan … it remains to be firmed up because the final decision on exactly the composition of it is a matter for the Minister for Justice (P8, 2016)

The NDFA's preparation of value for money assessments, which are included in the calculation of the PSB, are very misunderstood notions amongst the interviewees participating in this study. There is confusion about the makeup of the value for money assessments and concern of overestimation. Individual government departments prepare business cases to justify the building of new infrastructure. These business cases contain a mix of projects and a mix of procurement methods. The NDFA then carries out a value for money assessment of projects. A private sector interviewee involved in stage 2 and 3 PPP projects and currently involved in a Justice project believes the NDFA plays a significant role in the value for money process:

> I think the NDFA is probably instrumental in looking at a value for money options for how you procure … they have to put forward business cases … to give a clear view as to what the value for money solution is procuring (P11, 2016)

However, this was purely a private sector view. A public sector interviewee involved in the Primary Care projects discussed the significance of their role in the decision-making process and the less significant role of the NDFA:

> there are key value for money tests that have to be done all the way along the line…the NDFA do the tests but I guess we produce all the information (P22, 2016)

The NDFA's lack of a role in decision-making was discussed by interviewees in the context of what happens if the project fails the value for money test. For example, a public sector interviewee working on Primary Care projects said:

> it hasn't happened but my understanding is in accordance with what's in the PPP guidelines that if the project fails the value for money test it then goes beyond the level of the project board it goes up and ultimately it's the Minister who decides whether or not the project proceeds or not as the case may be (P22, 2016)

Ultimately, the NDFA does not have the authority to allow a project to proceed. A senior public sector interviewee involved in PPP decision-making emphasised that there was some discretion, with decisions ultimately resting with the Minister:

> it's not pass/fail, certainly the new guidance will be very clear that it's not a pass/fail and it was never intended to be pass/fail, but it is a value for money test …then it's a matter for the sanctioning authority to decide, what do they do…the Department … and the Minister (P8, 2016)

This role contrasts with the UK equivalent of a PPP unit, as a private sector interviewee working on Primary Care projects and has worked on UK PFI said:

> in the UK they do the options appraisal and they have to prove the value for money, is always the route that they're taking is best value for money (P18, 2016)

However, for the UK the research has shown that this seeming rigour has encouraged manipulation of these calculations (Scottish Parliament Finance Committee, 2008).

Interviewees raised issues with the PSB, which is prepared by the NDFA. The PSB, despite its importance in the overall value for money tests, appears to be only a notional test that is carried out and which quickly goes out of date. For example, the interviewee working on Primary Care projects said:

> do your initial PSB test [it] could be two or three years before you're actually getting your tenders in … The market might have changed quite significantly (P22, 2016)

This also raises the question as to how, or if the methodology, behind the value for money tests has evolved. It would appear that the methodology was updated in 2006, as confirmed by the senior public sector interviewee involved in PPP decision making:

> [there] were interim guidelines that would have been introduced around 2000 or early 2000s and then those guides, they were updated in 2006 and I think that was the last time they were formally updated (P8, 2016)

However, the methodology does not appear to have evolved since then. This is significant considering the financial crisis that occurred in the intervening time along with the market evolving.

Mistakes can also occur in the calculation of the PSB, suggesting that there may be problems with the overall methodology behind the PSB. When asked about the PSB and value for money tests, the senior public sector interviewee involved in PPP decision-making advised that mistakes occur that need to be corrected and the NDFA is involved in this process. This interviewee confirmed that:

> there'd been an underestimation in the PSB…we were satisfied that there had been a mistake in it…that was very unusual and it's not the kind of thing we'd normally like to see happen…It was something to do with the calculations on one of the elements of the project … something had been left out when they were doing it or they'd been using out of date information or something…it was allowed to go ahead but as I say, it's not a pass/fail test (P8, 2016)

However, other interviewees remain sceptical about the PSB calculation, and the lack of transparency surrounding it fuels speculation about it. For example, a public sector interviewee currently working on Justice projects who has worked on pre and post-crisis projects said:

> The PSB – is it real? The PSB is moved around by the NDFA to suit their purposes (P15, 2016)

This interviewee told a story that in a meeting with the NDFA:

> they come in and tell me, oh we've met the benchmark…but you moved it… yes but it was appropriate to move it in this occasion…no we've looked at the whole detail and the one we were looking at was too simple of an example, we needed to look at a more complicated example and we reckon that would add an extra 20% so we've added that to the baseline figure and that's what it gives us and we're just below that… for instance they would have got costs from us for different courthouses so they did an update of them…But then the figures would be adjusted, as they say, in the process of saying, we've updated them and the level of complexity was different (P15, 2016)

Previous research has highlighted that there is a lack of public disclosure around the PSB and value for money testing in Ireland (Caperchione et al., 2017), and the aforementioned conflict between the various actors in PPP serves to emphasise the lack of transparency surrounding how decisions are made to procure through PPP. Ultimately, the decision to procure through PPP is not a pass/fail decision and the Minister has the power to make the final decision. Burger (2009) states that the PPP unit should monitor and judge the affordability of a project which is a decision-making role. If this is done properly, the role of the PPP unit as a decision-maker has a positive effect on the legitimacy of PPP.

However, it seems that the NDFA does not have the power to make such decisions. Also, the lack of transparency would suggest that existing practices of the NDFA in assessing value for money and preparing the PSB do not encourage a rigorous and critical application of value for money criterial to PPP procurement. Overall, the NDFA seems to occupy a weak role as a decision-maker and therefore seems unlikely to contribute to the perceived legitimacy of PPP.

<u>NDFA as a policy developer</u>

Jooste et al. (2009) assert that the role of the PPP unit is to develop PPP policy. The NDFA is an adviser and its role encompasses that of finance, operations and project management as well as an implementor PPP policy. EPEC states that the NDFA has "medium priority activity" when it comes to policy (2014, p.41). The extended study found the NDFA is not mandated to develop PPP policy. This was emphasised by the senior public sector interviewee involved in PPP decision-making who stated:

> They don't make policy. They are advisers (P8, 2016)

However, there is a difference of opinion on the part of others regarding the role of the NDFA in policy development in stage 2 and stage 3 PPP projects. For example, interviewees involved in stage 2 PPPs, such as a private sector interviewee working on the Convention Centre Project (P10, 2016), procured before the financial crisis, spoke of the NDFA as being advisers but not being involved in the development or promotion of PPP policy. A private sector interviewee involved in the Criminal Courts of Justice project, procured before the financial crisis, explained the role of the NDFA, as follows:

> they are supposed to implement policy rather than design policy…they're instrumental in defining the procurement route (P11, 2016)

However, those involved in stage 3 PPPs do consider the NDFA to be involved in PPP policy development. For example, a private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to be involved in Social Housing PPPs said of the NDFA's role in policy development:

> I would say they certainly contribute to it … Yeah in terms of advertising (P13, 2016)

This reflects a change in the role of the NDFA. Jooste et al. (2009) state that the PPP unit should have a role to play in policy development and this will have a positive effect on the legitimacy of PPP. The views as to whether the NDFA is a policy-maker are mixed. The senior public sector interviewee involved in PPP decision-making and an interviewee involved in projects procured before the financial crisis say the agency is not a policy developer while those involved in post-crisis PPP procurement say it is. Overall, the NDFA in this regard seems to be unlikely to contribute to the legitimacy of PPP.

NDFA as a promoter of policy

Burger (2009) argues that there is a risk that a PPP unit may promote PPP because it knows the government will pick up the tab. This is also known as a PPP free rider effect. EPEC states that the NDFA is a promoter of PPP. This runs counter to the recommendations of Jooste (2010) that a PPP unit should retain neutrality and independence from the private sector.

The extended study revealed that a number of interviewees considered the NDFA to be too involved in PPP policy. It has a self-interest in PPP continuing, it advocates for PPP and it pushes it above other methods of procurement. For example, a PPP consultant who worked on stage 1 and 2 PPP projects in Ireland beginning in 2006 but who observes the market closely said that the NDFA is a promoter of PPP (P6, 2006). A public sector

interviewee involved in current Justice projects was explicit in stating that the NDFA had an interest in the PPP policy:

> they are too involved in policy and have a self-interest…without that policy there's no need for the NDFA … so there is a lot of self-survival involved…without it they don't exist (P15, 2016)

This interviewee even went as far as to suggest that the NDFA will advocate for PPP:

> we want it and we don't care how we get it (P15, 2016)

This was supported by another public sector interviewee also involved in the Criminal Courts of Justice PPP and stage 3 Justice PPPs who said the NDFA:

> would be always advocating PPP (P7, 2016)

The NDFA also exhibits self-interest in perpetuating PPP policy as discussed by a public sector interviewee working on current Justice projects:

> they are publicly funded so they can't be seen to be promoting one thing over the other and yet their raison d'être is to be facilitating PPPs so the temptation would obviously be to proselytise because that's what keeps them in jobs and yet as a public body … they can't necessarily promote them but they can react when things are done (P2, 2016)

Interviewees linked promotion of PPPs with the NDFA's involvement in political and governmental lobbying for PPP. The NDFA lobbies for political support for PPP, as discussed by a private sector interviewee whose company was successful in winning Primary Care projects:

> to get the pipeline you need political commitment on a higher level which I know NDFA are working very hard on (P18, 2016)

Another interviewee from the public sector involved in Justice PPPs also spoke of the NDFA and governmental lobbying:

> I think they push it…and I think they'd even go as … a bit of soft lobbying of [the] D[ept] of P[ublic] E[exp] and R[eform] … when they see what projects are out there as to what's suitable and what's not (P7, 2016)

The government is aware of the NDFA's vested interest in promoting PPP, as was confirmed by a senior public sector interviewee involved in PPP decision-making who explained:

> NDFA's job is about advising on PPPs, procuring PPPs, managing them afterwards so it is in their interest for PPPs to continue and they are advising us whether we should or not continue them so … they're not impartial, they do have a vested interest but we're fully aware of that (P8, 2016)

This interviewee explained that ultimately, it is the government's decision on what the level of investment in PPP should be:

> there's been coverage in the paper last week where Brian Murphy [then Director of the NDFA] was saying that the latest Capital Plan isn't adventurous enough and we should be doing more and we're going to suffer and we're going [to] pay for not investing… it's the government's job to decide what the appropriate level of investment should be and … we have to bear in mind who says what when they are advising us and what their background is so … we do have to take that into account (P8, 2016)

An interviewee who formerly worked with the NDFA (P4, 2016) and who left before the financial crisis said that the NDFA will always base its decision on value for money:

> they will argue quite strongly that [they] are not ideological at all, they are into value for money and if they believe a project doesn't have value for money … they won't recommend its procurement [in the case of] Thornton Hall Prison project (P4, 2016)

This suggests that the views of the NDFA as a promoter of PPP are ambiguous. Jooste (2010) states that the PPP unit should remain neutral. If the PPP unit is a promoter of PPP, this can have a negative effect on the legitimacy of PPP. The NDFA is now widely seen as a promoter of stage 3 PPPs and a political lobbyist for PPPs. This has serious implications as the agency carries out the value for money testing on PPP projects about which there is a lack of transparency (see *5.3.2.1 Transparency*). Apart from issues relating to the potential lack of objectivity of these tests there is also concern with regard to PPP "free rider" effects as identified by Burger (2009, p.83). Overall, the NDFA as a promoter of PPP policy mitigates against it being a major contributor to the legitimacy of PPP.

NDFA as a regulatory body

Burger (2009) states that the role of the PPP unit is to act as a regulatory body and this regulatory role can have a positive effect on the legitimacy of PPP. The extended study found that none of those interviewed identified the NDFA as a regulatory body for PPP. This again weakens the role of the NDFA in terms of its potential legitimacy enhancing role for PPP.

NDFA as a market driver

Matos-Castaño et al. (2014) state that it is important that the PPP unit use mechanisms to support the development of PPPs, which include market consultation. They argued that this will alleviate misunderstandings and conflict that can arise between the public and private sectors. Measures should also include "opportunities for dialogue" to resolve conflicts and solve problems that may arise (UNECE, 2008, p.21). This is similar to the Van den Hulk et al. (2016) assertion that the PPP unit be a disseminator of knowledge. However, Jooste (2010) extends the role of the PPP unit to one that drives project delivery leading to a more efficient project development and delivery process.

The extended study found that the role of the NDFA has evolved from being a disseminator of knowledge to one of a market driver since the financial crisis when PPPs were cancelled. However, the following analysis will indicate that instead of reacting to the market and following up with actions, the NDFA is actively managing the market by making announcements of initiatives which support the legitimacy of Irish PPP. However, it seems to fail to follow through on these initiatives with real action.

The NDFA runs consultation meetings with bidders. These meetings are well organised and welcomed by the private sector, especially as they show the NDFA as reacting to the market. These meetings follow a pattern which strives to ensure the process is transparent and thus mitigates against litigation. The NDFA does appear to keep bidders up to date on the bidding process, as evidenced by a private sector interviewee involved in stage 2 and 3 PPP projects and currently involved in a Justice project (P11, 2016).

The NDFA drives project delivery and deals with queries and clarifications at regular meetings and through correspondence. This was noted by a private sector interviewee who has worked on stage 2 and 3 PPPs:

> I think that there is very good project management from the point of view of the NDFA (P13, 2016)

A private sector interviewee involved in bidding on the Grangegorman project said of consultation meetings:

> it's very highly organised and they're probably judging you also on your ability to organise your team and deliver to the schedule (P19, 2016)

A former private sector interviewee now working in the public sector discussed how well the NDFA runs the bidding process:

> I think having the predictability of bid programmes is important … the NDFA are very tuned into that (P14, 2016)

However, one interviewee noted that documentation from the NDFA and correspondence from the NDFA lacked clarity. This was illustrated by a private sector interviewee from a construction company which failed on the Primary Care bid. They said that during the bidding process:

> the documentation you get … there'd be a process of queries and clarifications (P16, 2016)

Further criticisms noted that the NDFA can be condescending to bidders. A private sector interviewee who is working on Justice projects and also has experience of PFI in the UK said:

> I think treating bidding consortia like children isn't really needed, it's the only place it's ever happened is over here… There's just no need to say it (P11, 2016)

However, the private sector appears to be willing to accept the NDFA's practices. A private sector interviewee who was successful in winning Primary Care projects defended the NDFA's modus operandi:

> I think that's part of the litigious background that they're operating in, they have to make sure that there is a strict procedure and it's adhered to … very closely (P18, 2016)

The reason for this may be due to the PPP market having been very slow during the financial crisis and only becoming more buoyant since 2012 when the stimulus programme was announced. The private sector may be willing to put up with this attitude from the NDFA if it leads to future work for it.

In 2012, as a reaction to the financial crisis, the NDFA introduced initiatives to stimulate the market, analysed in *6.2.1 Methods to encourage market demand*. A private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to work on social housing projects pointed out:

> from our point of view the NDFA would have helped a lot in that way. We know what's coming, we know when it's coming. There may not be enough coming but I think that, it's transparent from that perspective (P13, 2016)

The market suffered after PPP schemes were cancelled during the financial crisis and the NDFA has tried to recover from this. As one private sector interviewee involved in PPP

since the pilot project said:

> [the NDFA] listened to market concerns (P19, 2016)

The NDFA evolved from disseminator of knowledge to market driver by introducing new initiatives to stimulate the market and to reassure the market that Ireland is committed to PPP. For example, a former private sector interviewee now working in the public sector spoke about how the NDFA reacted to the financial crisis:

> certainly they reacted well through the crisis… so generally speaking I think their role has been a positive and a success from a market point of view (P14, 2016)

A private sector interviewee involved in PPP since the pilot project also spoke highly of the NDFA and its reaction to the financial crisis and summarised the initiatives that the NDFA introduced as follows:

> they said, look we listened to market concerns which they did…they made sure that everything was off-balance sheet… they've reduced bid costs and bid timelines and they did… reduce the procurement schedule to fifteen to eighteen months from OJEU [The Official Journal of the European Union] to financial close…now six months of that is financial close. What they also did was they took out of it the funding (P19, 2016)

The agency introduced banking competitions:

> they have gone out, they've really sold it, after they kind of, the programme where there was a lot of schemes cancelled they then reassessed, they went out, they did road shows, they presented, they said ok we've changed our ways, you know we're going to keep to our programme, we're going to deliver, we're going to give you money … they … introduced banking competitions post award (P13, 2016)

An initiative brought in as a reaction to the financial crisis was the introduction of design-led PPPs, analysed further in *6.2.1 Methods to encourage market demand*. A public sector interviewee who is currently working on Justice projects spoke about the introduction of design-led PPPs and how the NDFA was initially concerned about this:

> the NDFA at one stage said, the developers won't like… it doesn't allow them design everything but in fact the developers responded quite well [to] the clarity, we know what we're being asked to do…Now they've come around they see the benefit of it (P15, 2016)

Overall, this raises the question as to whether the NDFA is working on behalf of the private sector or whether it is a neutral organisation.

A private sector interviewee involved in a consortium also commented on design-led PPPs commented on this a follows:

> I don't think they'll ever go back to bidders having design again (P24, 2016)

Despite these new initiatives, the lack of a clear PPP pipeline, analysed in *5.3.4 Project Portfolio*, has damaged the NDFA's reputation with the private sector. For example, a private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to be involved in Social Housing commented on the initiatives introduced by the NDFA:

> we've been left in this hiatus afterwards which is … starting to probably hurt what good work they did (P13, 2016)

Van den Hulk et al. (2016) state that a PPP unit should be a disseminator of knowledge and Matos-Castaño et al. (2014) contend that the PPP unit should be a market consultant. Jooste (2010) extends the role of the PPP unit to one that drives project delivery leading to a more efficient project development and delivery process. All of these activities are considered to have a positive effect on the legitimacy of PPP. The extended study indicates that in the case of the NDFA these roles have evolved from merely being a disseminator of knowledge, market consultant and project driver into that of a market driver. The NDFA is instrumental in keeping the market informed and reassuring the market about the continuation of the PPP programme, a factor which contributes to the legitimacy of PPP. Superficially, the reaction of the NDFA to the financial crisis and the initiatives it introduced suggests that the role of the NDFA has strengthened which in turn helps to stimulate the market and hence potentially contributes to the legitimacy of PPP. However, in *5.3.4 Project portfolio* it appears that the NDFA announced new PPP pipelines but there were delays and confusion surrounding the materialisation of projects and *6.2.5 Coordination of deal flow* indicates there is mixed evidence of a coordinated deal flow. This suggests that the NDFA is announcing PPP pipelines to drive the market, but is failing to following through with a clear pipeline of projects. This weakens legitimacy and deal flow, which in turn weakens capacity.

As discussed earlier, the role of the PPP unit is to monitor and judge the affordability

of a project. Yet evidence from the extended study indicates that the focus of the NDFA is shifting from striving for value for money to managing market optics by making PPP announcements to stimulate the market, with poor follow-up of projects and deal flow. This suggests that the potential contribution of the role of the NDFA as market driver to the legitimacy of PPP in Ireland is also relatively weak.

NDFA as a supporter

Jooste (2010) states that the PPP unit should facilitate the PPP process and provide leadership. In the extended study there were mixed opinions from interviewees on the role of the NDFA in providing leadership in PPP and the research indicates that this role has diminished to that of supporter. The view that the NDFA had a role as leader was met with agreement by some private sector interviewees. For example, a private sector interviewee who works for a successful bidder on the Primary Care projects, a stage 3 PPP, but who was also involved in failed bids pointed out:

> the NDFA would be the leading party (P18, 2016).

When the public sector interviewees were asked the same question, they responded differently, suggesting a supportive role rather than a leadership role. For example, a public sector interviewee working on stage 3 Justice projects commented:

> certainly support is my understanding more than leadership…my experience of them certainly is that they are very supportive (P2, 2016)

The senior public sector interviewee involved in PPP decision-making also commented on leadership:

> Well I suppose leadership is probably more our Minister really (P8, 2016)

There was a reluctance among the public sector interviewees to suggest that the NDFA provides leadership. This is in line with Jooste (2010) proposition that a PPP unit that drives delivery will struggle with acceptance among government departments.

Jooste (2010) states that the PPP unit should facilitate the PPP process and provide leadership. The role of the PPP unit as a leader has a positive effect on the legitimacy. However, the role of the NDFA appears to have diminished to that of a supporter of PPP, certainly among the public sector. This weakens the role of the NDFA and does not contribute to the legitimacy of PPP.

NDFA as a bureaucracy

A new role for the PPP unit identified in the extended study is that of bureaucracy, a role not previously identified in the literature. The NDFA was described by interviewees as being process driven, rigid and bureaucratic. This was seen as having both a positive and negative effects on the legitimacy of PPP. Those who spoke of the NDFA negatively tended to be public sector interviewees. For example, a public sector interviewee working on a stage 3 Education project spoke of the NDFA being process driven in critical terms:

> they can be sometimes overly process driven…sometimes it feels like their job is to deliver the project no matter what (P5, 2016)

A public sector interviewee who is working on stage 2 and 3 Justice projects said of the NDFA:

> it's far too bureaucratic (P15, 2016)

Also, a public sector interviewee involved in Justice projects was critical of meetings held between the NDFA and the private sector provider when projects are up and running:

> it's far too bureaucratic … there's far too many meetings … like it's totally disproportionate methodology over delivery, like the process is almost more important than the product (P15, 2016)

A private sector interviewee working on the stage 3 Convention Centre project was also critical of the NDFA:

> they're a stickler for detail… they often literally go to the letter of the contract and say, this report is meant to have ten pages, you only gave me nine pages, put another page in (P10, 2016)

A possible explanation for this rigidity was put forward by a private sector interviewee involved stage 2 and 3 PPPs:

> I think there are a number of issues around how rigid they are against the rules … and therefore you lose a bit of control of how they develop … the market (P11, 2016)

Those interviewees who spoke more positively about the NDFA tended to be from the private sector. They tended to defend the rigidity of the NDFA as it made the whole process more transparent. For example, a former private sector interviewee working in the public sector who has been involved in stage 2 and 3 PPPs said:

> I think there's no doubt that the Irish bidding process will be deemed to be very fair and very consistent by bidders (P14, 2016)

A private sector interviewee involved in stage 2 and 3 Education projects and a successful bidder on the Grangegorman project explained that the NDFA:

> have a responsibility, if they issue a timeline … they have to stick to that (P12, 2016)

The NDFAs adherence to rigid processes was also justified by a private sector interviewee involved stage 2 and 3 PPPs:

> they have a bunch of project managers who … are basically instructed to keep it standard and they do (P11, 2016)

However, a public sector interviewee working on stage 3 Justice projects was negative initially about the NDFA's process-driven approach but then supported it:

> if there was a negative it's that there's a huge concern over protecting the process over the outcome…it's documented… who made the decision … the basis on which they made the decision, so from a transparency point of view, on the … assumption that they release all the information (P2, 2016)

When the successful bidder has been appointed, the NDFA arranges to "meet the buyer" (P13, 2016), which is commonly known as "meet the bidder" meetings where contact is made between suppliers and the successful bidder. A private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to work on Social Housing projects pointed out that the NDFA has been promoting such meetings (P13, 2016). However, these meetings have been criticised for being overly bureaucratic. Interviewees spoke of how at the beginning of these meetings the "rules of engagement" are read out but one interviewee justified this as the NDFA showing that they don't favour one party over another (P11, 2016).

The reason for the NDFA's rigidity was summed up by a private sector interviewee working on the stage 3 Convention Centre project:

> they're just trying to do their job (P10, 2016)

It appears that the NDFA is focused on rules with some private sector interviewees and not with others, and despite it being so process driven, it was ultimately challenged on a technicality. BAM took a High Court action against the National Treasury Management Agency (NTMA) over the awarding of the Grangegorman contract[13]. The winning bidder,

[13] BAM PPP PGGM Infrastructure Cooperatie U.a v National Treasury and Finance Agency and Minister for Education and Skills, (2016), 2015 176JR & 2015 35COM.

Eriugena, did not submit its tender before the specified time, a violation of the rules. However, the High Court ruled in favour of the NTMA and stated that it had discretion to accept documents submitted after the tender deadline[14]. At the time of this study there were no appeals to the High Court ruling. The interviewees' assertions that the rules-based approach is to protect the process is shown to be flexible in this case.

According to the interviewees of this study the NDFA is rigid, bureaucratic and process driven, acting in a way not identified in the literature on PPP units. The negativity of the public sector and more positive attitude of the private sector towards the bureaucratic nature of the NDFA suggests that the NDFA is working to make the PPP process more streamlined for the private sector but that this is adding to the workload of the public sector. Despite some interviewees trying to justify this as the NDFA's way of ensuring the rules are followed, the High Court action taken by BAM illustrates that there may be strict rules for some private sector organisations and more fluid rules for others. The NDFA's approach seems to lack clarity and is confusing for the private sector. It creates a weakness in the NDFA's potential contribution to the legitimacy of PPP.

Summary 5.3.1 Lead Institutional Support

The literature asserts that the existence of a lead institutional support, or a PPP unit, will increase the legitimacy of PPP by creating a belief in the benefits and value for money that private sector involvement will bring, brought about through increased transparency and consistency (Matos-Castaño, 2011). The literature outlines the expected roles of the PPP unit as expert/adviser, policy developer, regulatory body, decision-maker, leader and promoter of policy, all of which, are said to have a positive effect on the legitimacy of PPP.

Van den Hulk et al. (2016) describe three groups of PPP units with varying degrees of institutional support. First is one which is responsible for technical support, capacity building/promotion and knowledge dissemination. Second is one that is likely to play a role in policy guidance and policy evaluation. Third is one which serves as a "gate-keeper" where projects require advice or judgement from the PPP unit to be approved (Van den Hulk et al., 2016, p.6).

The NDFA is the centre of knowledge and expertise of PPP in Ireland. While it is a well-staffed expert unit, there are concerns over mobility of staff between the public and

[14] "High Court rejects challenge to DIT contract award", Mary Carolan, The Irish Times, 7 October 2016.

private sector in stage 3 projects and its implications for protecting the public sector benchmark (PSB). The findings of the pilot study outlined in chapter 4 were that the NDFA was considered to fulfil partially the functions of a PPP unit (Sheppard and Beck, 2016).

However, the findings of this study in the context of the NDFA depict a role that has evolved beyond what is described in the literature on PPP units. Accordingly, the literature notes the role of disseminator of knowledge, market consultant and project driver while the data analysis shows these to have evolved to a role of market driver. The role of leader, described in the literature, during the data analysis has diminished in importance to supporter. The research also identifies a new role of the PPP unit as a bureaucracy. Table 5.2 summarises the degree of the NDFA's involvement in the role and its contribution to the legitimacy of PPP.

Table 5.2: The degree of the NDFA's involvement in the role and its contribution to the legitimacy of PPP

		Degree of the NDFA's involvement in the role		
Contribution to legitimacy of PPP		**Weak**	**Mixed**	**Strong**
	Negative			**Promoter of policy** **Bureaucracy**
	Positive	**Decision-maker** **Regulatory body** **Supporter** **Market driver**	**Policy developer**	**Adviser and expert**

The role of PPP unit as adviser and expert has a positive effect on the legitimacy of PPP. Despite some negativity towards the NDFA, it appears to have a strong role to play as a PPP adviser and expert and in this capacity it therefore contributes to the legitimacy of PPP in this sense.

The role of the PPP unit as a decision-maker has a positive effect on the legitimacy of PPP. The NDFA does not have the power to make decisions. Also, the lack of transparency suggests that the role of the NDFA in assessing value for money and preparing the PSB casts doubt on the true value for money of PPP. The NDFA demonstrates a weak role as a decision-maker and therefore it is not likely to contribute significantly to the legitimacy of PPP in this respect.

Views as to whether the NDFA is a policy-maker are mixed. The senior public sector interviewee involved in PPP decision-making and an interviewee involved in projects procured before the financial crisis suggest it is not a policy developer, while those involved in post-crisis PPP procurement say it is. Either way the NDFA in this regard does not seem to contribute significantly to the legitimacy of PPP.

While the NDFA demonstrates a strong role as a promoter of PPP, and this does not seem to contribute to the legitimacy of PPP. Interviewees did not identify the role of the NDFA as a regulatory body for PPP. Again this weakens the perceived role of the NDFA and reduces its potential contribution to the legitimacy of PPP.

The NDFA is instrumental in keeping the market informed and in reassuring the market about the continuation of the PPP programme. The role of disseminator of knowledge, market consultant and project driver evolved to a market driver during the financial crisis which helps to stimulate the market and thus contributes to the legitimacy of PPP. However, when taken in the context of *5.3.4 Project portfolio* and *6.2.5 Coordination of deal flow* the contribution of the role of the NDFA to the legitimacy of PPP is weak.

The role of the NDFA has diminished from that of a potential leader to that of a supporter of PPP. Again it is likely to weaken the role of the NDFA and reduces its contribution to the legitimacy of PPP. The NDFA is rigid, bureaucratic and process driven, a role not identified in the literature for other PPP units. Existing approaches of the NDFA are confusing for the private sector. This again indicates a weakness which undermines the potential contribution of the NDFA to the legitimacy of PPP.

In terms of Van den Hulk et al. (2016) categorisation of three groups of PPP units outlined above, this study suggests that the NDFA is responsible for knowledge dissemination and provides policy guidance but that it does not exhibit the strong degree of institutional support characteristics of a “gate-keeper”.

Overall it was found that the role and function of the NDFA were more complex than suggested by the literature. The NDFA’s involvement in the roles of decision-maker and policy developer were found to be mixed and its role as regulatory body, supporter and market driver were found to be weak, all roles which have a positive effect on the legitimacy of PPP. Overall this suggests that the NDFA is weak in its contribution to the legitimacy of PPP which should cause serious concerns for the sustainability of this policy.

5.3.2 Political support

The literature discusses the importance of providing a stable political environment (Jooste et al., 2009; Matos-Castaño et al., 2012; Matos-Castaño et al., 2014), political willingness for PPP (Matos-Castaño, 2011) in the form of a political champion, a transparent and consistent PPP unit which disseminates information, all of which are said to contribute towards the legitimacy of PPP.

Table 5.3 shows how *5.3.2 Political support* is analysed and sub-divided into *5.3.2.1 Transparency*, *5.3.2.2 Legal and regulatory framework* and *5.3.2.3 Political commitment*. The order of analysis is based on the number of text blocks identified against each sub-theme in the data analysis, as outlined in Table 5.3. The number of text blocks does not necessarily reflect the importance of the theme.

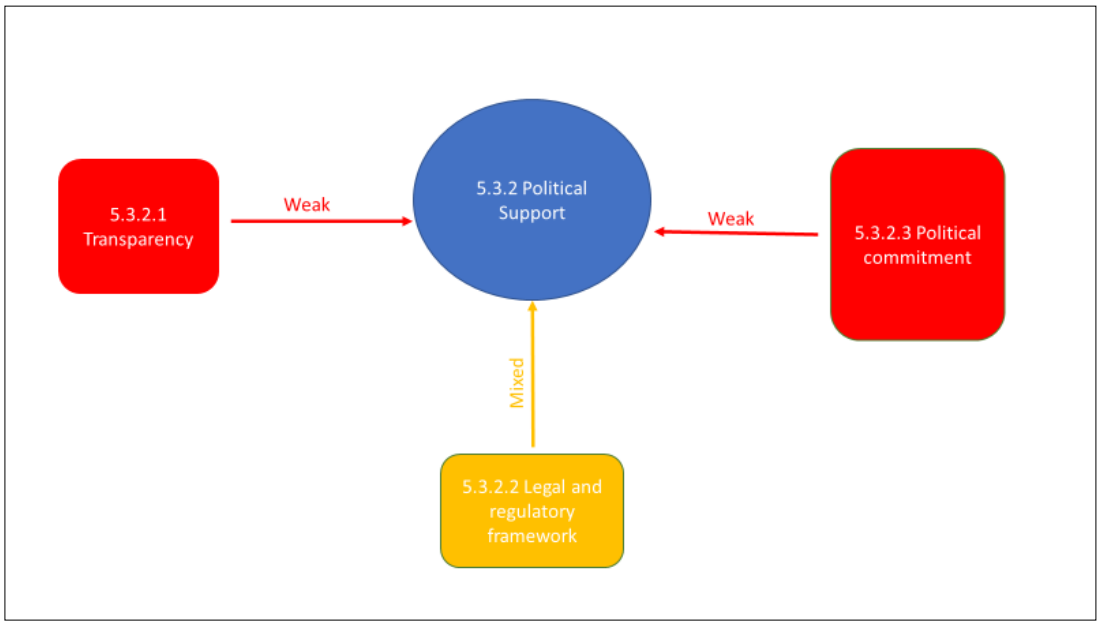
Table 5.3: Order of analysis of 5.3.2 Political support

Name	**Number of text blocks**	**Number of text blocks**
5.3 Theme 1 Legitimacy		3527
5.3.1 Lead institutional support		990
5.3.2 Political support:		
- 5.3.2.1 Transparency	441	
- 5.3.2.2 Legal and regulatory framework	285	
- 5.3.2.3 Political commitment	226	952
5.3.3 Stakeholder consent		413
5.3.4 Project portfolio		1172

It is interesting that the three elements of political support were discussed the most by interviewees who had been involved in stage 3 PPPs of Justice, Education and Primary Care, the busiest PPP sectors at the time of data collection.

The sub-themes of Political Support are summarised in Figure 5.3 which outlines the differing degrees of strength that each sub-theme has in relation to the legitimacy of PPP which in turn provides institutional capacity and will contribute to the sustainability of this policy. As a brief overview it is worth noting that transparency weakens the legitimacy of PPP in Ireland as does political commitment, while the results for the legal and regulatory framework are mixed. Each of these sub-themes is now analysed in detail.

Figure 5.3: Political support



5.3.2.1 Transparency

The literature suggests that ensuring the transparency of projects and project development will increase the legitimacy of the PPP programme (Jooste et al., 2009) and is critical for the success of the policy (Li et al, 2005b). Matos-Castaño (2011, p.7) argues that a strong institutional environment surrounding PPP arrangements where there is "a coherent PPP policy, supportive risk sharing, reciprocal support, transparency [and] sustainable development" will lead to sustainable PPP arrangements.

Matos-Castaño (2011, p.19) maintains that for there to be transparency in the PPP decision-making process, there should be "predictability in decision-making" with relevant information being readily available for all interested parties. Accordingly, there is a need for transparency in the choice of projects for PPP (Matos-Castaño et al., 2012) and the decision-making surrounding this should also be transparent (Jooste et al., 2009). In particular, Jooste et al. (2009), Matos-Castaño et al. (2012) and Matos-Castaño et al. (2014) argue that procurement and negotiations should be conducted in a transparent way, as should the eventual awarding of projects. Khadaroo (2008), Boardman and Vining (2012) and Vining and Boardman (2008a) recommend that there should be transparency and public availability of all PPP contracts. Jooste et al. (2009) contend that it is also essential that the public are well informed regarding project details such as targets and performance indicators. Ensuring transparency will strengthen the legitimacy of PPP procurement which will lead to a more sustainable policy in the long run.

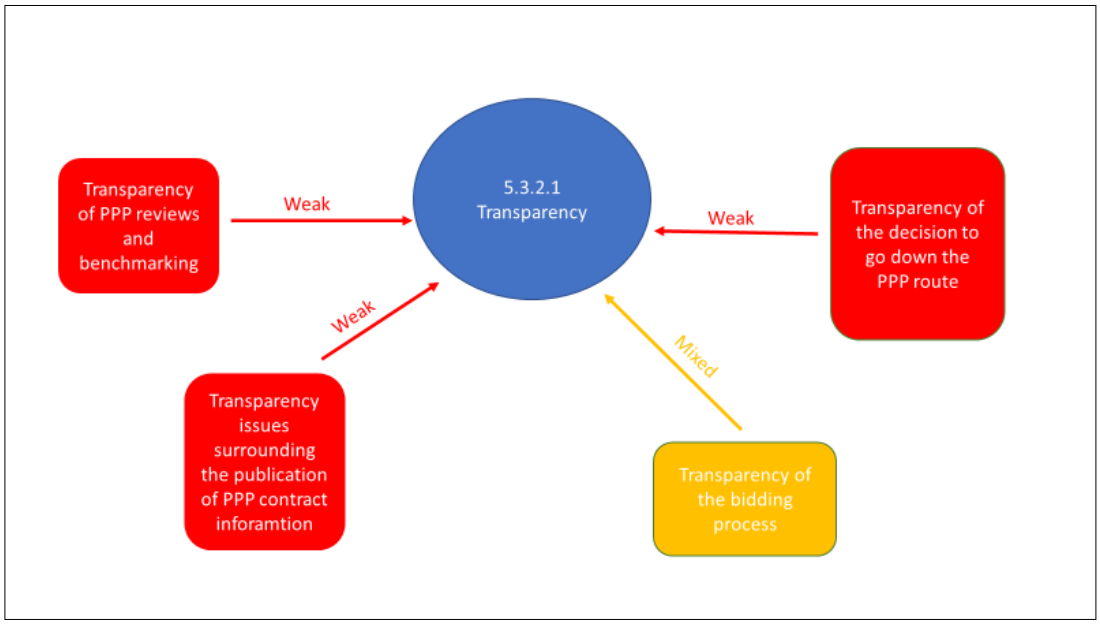
The findings of the pilot study outlined in chapter 4 indicated that, although value for money assessments are given central importance by the Irish government, full evaluation has not taken place because of commercial sensitivity issues and this has sustainability implications for PPP in Ireland (Sheppard and Beck, 2016). The pilot study also found mixed evidence of value for money being achieved (Sheppard and Beck, 2016).

When the pilot study was extended in 2016, the research found that there is transparency in some areas of PPP and a lack of transparency in others. Specifically, transparency themes are investigated in this section. Using the data analysis method outlined in chapter 4, it was found that transparency was the most frequently discussed by interviewees in relation to political support. It was most frequently discussed in relation to Primary Care, a new area of PPP post crisis and to a lesser extent in Justice which spans pre- and post crisis. It was less frequently discussed in the more established PPP areas of Transport, Education, the Convention Centre and Environment. Transparency was seen as relevant by interviewees in a number of contexts:

- Transparency of the decision to go down the PPP route
- Transparency of the bidding process
- Transparency issues surrounding the publication of PPP contract information
- Transparency of PPP reviews and benchmarking

As a brief overview it is worth noting that the data analysis found that all of these contexts were weak in their contribution to the legitimacy of PPP in Ireland apart from "Transparency of the bidding process" which was mixed. The subsequent analysis of 5.3.2.1 Transparency is summarised in Figure 5.4.

Figure 5.4: Transparency



Each of these is now examined in the paragraphs that follow.

Transparency of the decision to go down the PPP route

For there to be public accountability there should be transparency around PPP decision-making (Aziz, 2007). Research carried out by the Canadian Council for Public Private Partnerships (CCPPP) calls for "fair and transparent" publication of value for money reports (CCPPP, 2005, p.4) and in particular transparency with regard to the way value for money is measured (Dixon et al., 2005). In Ireland the Comptroller and Auditor General has called for more transparency in the PPP value for money appraisals necessary to justify proceeding to build through PPP (Comptroller and Auditor General, 2012). Ensuring transparency and well-documented and consistent decision-making in the public sector will attract market participants to the PPP process (Delhi and Mahalingam, 2012), thus increasing the legitimacy of PPPs. A private sector interviewee involved in Justice who emphasised the importance of transparency in creating sustainability:

> if you're trying to build a market … you can never be criticised for having too much transparency, it is, in the long term, probably … sustainable … there's sort of a paranoia to be seen to be pure but then they don't have a transparent system or showing everything in terms of the decision-making (P11, 2016)

Transparency surrounding the decision to go the PPP route was more of a concern for the public sector interviewees than private sector interviewees. It was felt that there is a clear

lack of transparency in how projects are chosen to be built through PPP. For example, a former private sector interviewee now working in the public sector said:

> Whether it goes PPP or goes traditional procurement in the first place is probably where there isn't any transparency (P14, 2016)

There is also a lack of understanding as to why the decision-making process is opaque, as this interviewee went on to mention:

> that whole benchmarking thing is a bit of a … black hole from those of us looking in from the outside. Maybe it needs to remain like that I don't know (P14, 2016)

Possibly one of the reasons for this is political expediency, as suggested by a public sector interviewee working on an Education project:

> the lack of transparency is choosing the projects, in terms of what gets picked to be funded you know that's … a political decision (P5, 2016)

Another reason is that PPP is seen as a means to an end and being more transparent may delay the process, as suggested by a public sector interviewee working on Justice projects:

> when people want something like [a] … building built they may say, well … look we want it just get on with it (P15, 2016)

However, this lack of transparency can result in speculation about decision-making, as an interviewee who formerly worked with the NDFA discussed:

> value for money test is done on a project by project basis and the Minister is supposed to not sign off on the project until it is … proved that it is value for money but do they do that? I don't know, and I doubt if you'll find out (P4, 2016)

This was a concern also shared by a public sector interviewee involved in Transport projects, who said:

> [I] don't like the idea that people think it's …secretive either … from my perspective I've nothing to hide (P3, 2016)

Regarding transparency surrounding the value for money testing that is carried out on these projects, this clearly seems to be lacking even though it is crucial for the justification of this procurement method to the taxpayer. This is of concern to the public sector as discussed by a public sector interviewee working on a stage 3 Education project. This interviewee acknowledged that publishing data has been considered on other projects but rather this was subject to disagreement:

> there have been a regular debate on other PPPs whether to publish (P5, 2016)

This point was also acknowledged by a public sector interviewee working on Justice, who advocated for limited transparency:

> if they are receiving State money they have to know that at some point the taxpayer is entitled to know the basis on which they are running for the next 25 years has been committed … I don't think these things should be made available immediately (P2, 2016)

Another possible reason for the lack of transparency that was mentioned by this interviewee was the complexity of the methodology used in the value for money testing:

> that evaluation of PPP as a methodology [it's] very hard to make a comparison … because … PPP guarantees the asset will be well maintained over the life of the project and … the State does not maintain its assets (P5, 2016)

A possible reason for the lack of transparency surrounding the publication of a value for money test was noted as far back as 2007 (Dáil Éireann, 2007). The report discussed "commercial-in-confidence clauses" and noted that they prevent the full disclosure of details such as the value for money comparison and the expected return on investment (Dáil Éireann, 2007, p.4). This report mentions the Public Accounts and Estimates Committee of Victoria, Australia and quotes its report on Commercial in-Confidence Material and the Public Interest which emphasised that the public are entitled to know what contracts have been entered into on their behalf and what the terms and conditions are. However, it was also noted that in Ireland the balance has tipped in favour of confidentiality to help protect "commercially sensitive information" (Siemiatycki, 2006, p.145).

The NDFA is protecting the interests of the private sector by not releasing information on value for money testing. An interviewee who formerly worked with the NDFA was asked about transparency surrounding the NDFA's value for money testing of projects questioned the current approval. The interviewee said the NDFA could provide information on value for money:

> once it's not commercially sensitive … I mean they are not a secret, clandestine organisation (P4, 2016)

This problem was highlighted by the public sector interviewee involved in Environment projects who made the point that the NDFA oversees value for money testing on behalf of the taxpayer but there is little transparency as:

> they're commercial documents and they're generally not available for scrutiny (P9, 2016)

Clearly there is a conflict of interest here. The NDFA is protecting the private sector's commercial interests but it also need to protect the taxpayers' interests. The result of this lack of transparency is speculation on how decisions are made, as noted by a public sector interviewee involved in Justice projects:

> it's really the NDFA is saying, well we say that stuff's right (P15, 2016)

Lack of transparency is speculation about whether decisions are well reasoned. For example, a public sector interviewee with more than 15 years' experience of working on Transport projects suggested that at times an inappropriate approach to decision criterion based on the PSB is used rather than a decision based on what's needed and affordable (P3, 2016). However, as the basis for the decisions made is not published, this is not further examined.

Lack of transparency surrounding decision-making has been a concern for the Committee of Public Accounts where a TD said that members of the committee have asked for evidence that PPPs represent value for money. This TD said that they were told there is a PSB but they had not seen one yet (Dáil Éireann, 2016).

There is an inherent conflict between transparency and commercial sensitivity. The NDFA seems to be primarily concerned about commercial sensitivity and protecting the interests of the private sector, yet the private sector is concerned about demonstrating value for money to the taxpayer. For example, a private sector interviewee who works for a successful bidder on the Primary Care projects was concerned about transparency surrounding value for money and how this may be demonstrated to the taxpayer:

> both the private sector and the public sector can do more to just demonstrate the benefits [of PPP] (P18, 2016)

There was confusion regarding transparency and how much information was available through freedom of information (FOI). A public sector interviewee involved in stage 3 Justice projects was under the impression that contract information loses its commercial sensitivity after a period of time and would be available under FOI (P7, 2016). This point was negated by a senior public sector interviewee involved in PPP decision-making who said regarding the public availability of value for money assessments:

> No I don't think we'd, no (P8, 2016)

There are differing opinions within the public sector as to how much information

should be published resulting in an ad hoc approach and a lack of cohesion. For example, a public sector interviewee who is working on a stage 3 education PPP explained that publishing some data can work in favour of the State. On the stage 3 Education project that this interviewee worked on, they published the capital expenditure envelope:

> the first time ever on a PPP the State did publish its capital expenditure envelope, what we expected it to cost and they all did bid under that (P5, 2016)

However, the senior public sector interviewee involved in PPP decision-making was concerned over revealing the State's resources for procurement:

> we don't think we should tip our hand (P8, 2016)

The PPP Policy Framework overseen by the Department of Public Expenditure and Reform, a role previously undertaken by the Department of Finance, does not allow for the calculation of the PSB to be made public. This was clarified by a public sector interviewee working on Transport projects:

> There's Department of Finance guidelines where PSBs should not be released (P3, 2016)

There is also a lack of consensus on the policy of transparency across different sections of the state. For example, a senior public sector interviewee involved in PPP decision making acknowledged that the Comptroller and Auditor General (C&AG) advised that the PSB be published:

> Now actually the C&AG recommended that maybe we should publish the PSB so that people could see (P8, 2016)

but said that they have not accepted that recommendation. Despite this the Department of Education and Skills has published its PSB for Schools Bundle 1 and 2.

Lack of transparency has caused a public sector interviewee working on Primary Care projects to cast doubt over whether this figure was the PSB. They said of the Schools Bundle 1 and 2 PSB figures published:

> Well that's only the unitary charge payment that they publish (P22, 2016)

However, this cannot be confirmed because the figure published by the Department of Education and Skills is a single figure not broken down into its various cost components. The lack of transparency surrounding the PSB was summed up by a private sector interviewee now working in the public sector who discussed that the PSB is "a black hole" (P14, 2016).

The consequence of this lack of transparency is a suspicion that the PSB may be subject to manipulation. This is not the first time that the use of quantitative analysis used to

assess decisions is questioned. For example, in the UK such type of analysis has been reported to be "prone to mistakes, manipulation and misuse" (House of Lords, 2010, p86). This committee also found that value for money comparisons had been manipulated but a lack of transparency made it difficult to disclose the true value for money result to the taxpayer (House of Lords, 2010, p130). Another finding of this committee was that the use of "optimism bias" in the public sector comparator (similar to the public sector benchmark) calculation worked in favour of PFI and in "a very large number of cases" if it was removed from the calculations, the public sector comparator would have been in favour of traditional procurement (House of Lords, 2010, p124).

The pilot study revealed that policy transfer has taken place between Ireland and the UK (Sheppard and Beck, 2016), and this was also confirmed in *6.2.2.1 Learning from UK PFIs*. However, interviewees spoke of learning from the UK in terms of different sectors such as roads, courts, education and health projects but no interviewees spoke of learning from the UK in terms of value for money calculations. It is quite likely that the problems highlighted in the UK have been replicated in Ireland and there is unease about this aspect of transfer. As in the UK the role of accounting calculations in the form of the PSB has been questioned in Ireland but the particular lack of transparency surrounding it makes more detailed examination difficult.

A PPP consultant who has worked on stage 1 and 2 PPP projects in Ireland beginning in 2006 (P6, 2016) spoke of clever accounting where figures in the PSB are moved around to favour PPP, an exercise carried out by financial advisers. This was corroborated on by a public sector interviewee working on Justice projects and who has worked on pre- and post-crisis projects. This interviewee expressed concern about the validity of the PSB:

> is the public service benchmark that they claim a real benchmark? (P15, 2016)

The interviewee said that in their experience of PPP:

> I've seen them move the figures just to like, where do you want it? (P15, 2016)

This interviewee claims that when asked why the PSB was changed they were told:

> it was appropriate to move it in this occasion … it was moved to suit (P15, 2016)

When asked about the lack of transparency surrounding the PSB, interviewees discussed various reasons why this information was not made widely available. Fear of criticism of what goes into the calculation was discussed by a public sector interviewee involved in Transport projects:

> if we put it out there won't everyone try and say, ah that's all wrong and whatever type of thing, what do you do like type of thing…we can have the whole world looking over our shoulder and saying, change that, change that (P3, 2016)

Problems identifying risks, a key element of the PSB, was also discussed by a public sector interviewee involved in Transport projects as a reason for not being more transparent: "you can't quantify all risks" (P3, 2016).

Commercial sensitivity was discussed also as a reason for the lack of transparency. This was expressed also by a public sector interviewee working on Primary Care projects who said that they would not be providing any detail of costings on any project, traditionally procured or procured through PPP, because:

> the market doesn't want that out there … in terms of their own commercial sensitivities you know (P22, 2016)

Transparency of the bidding process

Transparency of the PPP procurement process is of the utmost importance for public accountability (Aziz, 2007; Li et al., 2005a). It ensures fair competition, reduces criticism of the selection process and accusations of political favouritism (Kumaraswamy and Zhang, 2001) and thereby makes corrupt practices more difficult (PPIAF, 2007), ultimately enhancing legitimacy. To ensure transparency in the bidding process, it is important that "supplier evaluation and contract award criteria would be made known to all parties in advance" (UNECE, 2008, p.46). These are the themes discussed in this section.

Discussions of the transparency of the bidding process featured very heavily in the extended study. This analysis indicates that public sector interviewees are more concerned about litigation in the bidding process and the transparency surrounding the bid evaluation criteria, while private sector interviewees is more concerned with transparency surrounding the bidding process, feedback and the debriefing of unsuccessful bidders. Convincing bidders of transparency in the bidding process is particularly important for the unsuccessful bidders. This was demonstrated with the awarding of the Grangegorman contract to Eriugena consortium, which is discussed later in this section.

The NDFA is very eager to demonstrate transparency surrounding the bidding process to the industry. For example, a private sector interviewee from a construction company which failed on a Primary Care bid noted:

> the NDFA did a presentation when this was being promoted … they were keen to make sure that the industry [know] … there was transparency (P16, 2016)

However, the lack of transparency surrounding how contracts are actually awarded has led to speculation and suspicion by the private sector. For example, a private sector interviewee involved in stage 2 and 3 PPP projects and currently involved in a Justice project made the point about publishing information on the winning bid:

> there's a paranoia over here … because there's such a small margin between winning and losing that, and the lack of transparency does lead to … concern by bidders that they don't know why they've lost or don't know why they've won for that matter (P11, 2016)

This interviewee was adamant that there was very little transparency in the bidding process:

> No, complete black box in my view, they will tell you how they award marks at a macro level but then when you get into the detail it's all … based on hearsay, it's coming from other people … that's an area that could be more transparent (P11, 2016)

The interviewee went on to contrast the Irish situation with that in the US where there is complete transparency surrounding winning bids which losers love and the winners hate. The interviewee said that publishing this information in Ireland would be of help to the losing bidders (P11, 2016).

However, transparency in the bidding process is a complex matter. The United Nations Economic Commission for Europe (UNECE) requires that bid information should be kept secret as it could contain information that could benefit a competitor, particularly if procurement involves the protection of patents and copyrights, or for national security reasons (UNECE, 2008). Yet, if these rules were strictly enforced, then the bidding processes will never be fully transparent, as explained by a former private sector interviewee now working in the public sector, as there are always reasons for commercial confidentiality (P14, 2016). However, this interviewee emphasised that the main concern for unsuccessful bidders is that they get sufficient feedback on their bids (P14, 2016).

In the absence of full transparency on all aspects of procurement, it would appear that transparency surrounding the running of the bidding process is of utmost importance, and here there is general consensus among the private sector that the process is transparent. This was confirmed by a former private sector interviewee now working in the public sector, who noted:

> I think the fact the bidders keep coming back in itself says it's a transparent market (P14, 2016)

This point was discussed by a private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to be involved in Social Housing PPPs. This interviewee said that the bidding process is:

> one that has to be followed rigidly to make sure that no one can accuse anyone of any wrongdoing so you have certain people present, confidentiality is of the utmost importance (P13, 2016)

A former private sector interviewee now working in the public sector pointed out that they felt the Irish bidding process was fair:

> to the point sometimes of rigidity but rigidity is better than perception of skulduggery, lack of transparency or jobs for the boys or whatever…It's … transparent [the] scoring system is very clear, if anything it's a bit rigid (P14, 2016)

It is interesting that even unsuccessful bidders feel that the bidding process is transparent. A private sector interviewee from a construction company who failed on a Primary Care bid said:

> I suppose it's transparent as it can be because it is very strict rules … it's very closely watched and I know the awarding authorities are very conscious of their obligations and the rules and what they're meant to do and contractors are watching it like a hawk and you see the challenges and you know there is that process that happens … it's pretty transparent because the awarding authority is very conscious that if they don't do it right there'll be a challenge…my sense is that it's reasonably transparent (P16, 2016)

Another private sector interviewee involved in PPP since the pilot projects also agreed that there is transparency surrounding the bidding process:

> they run a very good bidder process, debriefs … are very above board, there's no skulduggery or favouritism going on at all (P19, 2016)

The bid evaluation process is run by the NDFA and the general consensus from public sector interviewees who commented on this was that the process was clear and transparent. A public sector interviewee working on Justice projects pointed out:

> the process in which we actively participate … it's very rigorous (P2, 2016)

This was also the view of a public sector interviewee with more than 15 years' experience of working on Transport projects:

> there's no hidden evaluation criteria or any of those kind of things it's all set out exactly (P3, 2016)

This view was shared by a public sector interviewee who is working on a stage 3 education PPP project:

> the procurement to my mind was very fair in terms of all bidders … there was no preferential treatment of anyone, the information was all made … freely … the process itself was very rigidly run (P5, 2016)

This was also confirmed by a public sector interviewee who has worked on stage 2 and 3 Justice projects:

> the rules of the competition, what the marks are for each bid etc… Yeah they get all that in advance so … that's available (P7, 2016)

Interestingly, an interviewee from a construction company which failed on the Primary Care bid also thought the bid evaluation was transparent:

> any public sector award … the end user is obliged to tell you …the criteria … of the winning bid … and then how you compared to [it]…because it's a competition and it's got to be a level playing field … there's a lot of transparency with that (P16, 2016)

However, from an oversight point of view, it is questionable why the sanctioning authority, the government department procuring the project, is not present at the opening of bids. This was discussed by a public sector interviewee who is working on Justice projects and attends the opening of bids:

> No, NDFA keep that to themselves (P15, 2016)

Although it is not all that surprising that there is clear transparency in the running of the bidding process and the availability of bid evaluation criteria as this is regulated under EU legislation, it is surprising that there are no provisions for government departments to participate at the opening of bids, particularly given the recent issues in the Grangegorman bid opening process.

Transparency of feedback given to bidders at different stages of the bidding process and the debriefing of unsuccessful bidders was most spoken about by interviewees from stage 3 Primary Care projects and the more established Transport projects. In terms of meetings that

take place between bidders, the NDFA and the procuring authorities, the level of transparency was seen to be mixed. The meetings were described as very formal with a disclaimer being read out at the start of the meeting (P18, 2016). This private sector interviewee felt that this was due to the litigious nature of Ireland:

> part of the litigious background that they're operating in, they have to make sure that there is a strict procedure and it's adhered to very, very closely so that if somebody makes a challenge along the way they have that to go back to and demonstrate how they've been transparent and impartial to everyone (P18, 2016)

The meetings are key to bidders but the formal process can dilute the benefit, as explained by a private sector interviewee who works for a successful bidder on the Primary Care projects, but who was also involved in failed bids:

> because of everybody trying to guard their interests, it might be a bit skewed in terms of the authorities trying to make sure that they were absolutely crystal clear in selection and there wasn't any room for manoeuvre … but generally feedback is good and they have … to give you the … ratings of everybody (P18, 2016)

Feedback and especially the lack of it can be confusing to bidders as they may be told where something does not meet requirements but are not given suggestions on how it can be rectified:

> but then it's up to you to figure out what is really the best thing you can do (P18, 2016)

It was noted is that there is transparency in terms of feedback given to unsuccessful bidders after the bid has been awarded. This, of course, is standard in public procurement, as one interviewee from a construction company which failed on the Primary Care bid noted:

> this would be standard in any public sector [award] … that you get given the reasons why you didn't [win] (P16, 2016)

Feedback is given to bidders by letter and this interviewee noted that:

> it's very detailed. You get a, you either get a letter tells you you're successful or unsuccessful or you get initial scoring of where you are in the tender and if you're successful you get an appendix to that letter which sets out a list of things that have to be clarified within a very short timeframe (P24, 2016)

Unsuccessful bidders are also allowed a debrief with the NDFA, as explained by a private sector interviewee involved in a consortium:

> you're welcome to come to a debrief where … it's explained in a lot more detail (P24, 2016)

It is interesting to analyse the view of an interviewee from the construction company which failed on the Primary Care bid, who also states that there is transparency surrounding the feedback given to unsuccessful bidders:

> there's … transparency about what won it and why you didn't win it and you get [a] breakdown and you get [a] detailed analysis of the whole bid … broken down into all different sections (P16, 2016)

The importance of transparency in feedback to unsuccessful bidders was emphasised by a former private sector interviewee now working in the public sector with experience of stage 2 and 3 PPP who specified the transparency of the feedback given to unsuccessful bidders:

> I think Ireland would have a very good name for that in terms of people knowing why they did and didn't win … they get … [a] clear marking systems … the fact that bidders keep coming back suggests they'll never be happy when they lose but at least when they lose they know why, they see the marking systems and the scores and they get their feedback (P14, 2016)

However, there is tension in the process from the public sector's point of view. A public sector interviewee with more than 15 years' experience of working on Transport projects spoke of the delicate balance of providing useful feedback to unsuccessful bidders and providing too much information which leaves the door open to litigation:

> they'll always want to meet you … but it's a very tricky process, if you give out a debrief letter and then they meet you two months later and … you're nice to them and you say something that you didn't say in your letter that will be latched on, oh that's new information now and therefore will we see could we do a challenge … you're on guard all the time unfortunately, it's the nature of … public procurement … there is confidentiality, you can't say … that guy there bid 100 and you bid a 150 you know you don't go that, but you do say look you were more expensive in this area … you were a lot more expensive … it gives him a guide…we give them the scores so they can see, they can work out on an NPV basis how they ranked (P3, 2016)

Despite transparency in the bidding process and feedback to unsuccessful bidders, decisions are challenged, as discussed by a PPP consultant who has worked on stage 1 and 2 PPP projects in Ireland beginning in 2006. This interviewee said that bidders are aware of award criteria and that there are more challenges by bidders now than in the early days (P6, 2016). The public sector interviewee with more than 15 years' experience of working on Transport projects said that the appropriate level of transparency can be difficult to determine and spoke of a litigation case brought by an underbidder:

> they say that our … requirements weren't sufficiently clear as far as they're concerned … we give them the breakdown … they will go to court and we'll go to court and we've nothing to hide (P3, 2016)

Delays in commencing projects can be experienced due to litigation by unsuccessful bidders:

> people are so happy to sue you as well or to try to sue to you delay contracts (P3, 2016)

The High Court action taken by BAM against the NTMA and the Minister for Education and Skills (see the discussion under the NDFA as a bureaucracy in *5.3.1 Lead Institutional Support*) highlighted inconsistencies and a lack of transparency in the bidding process. A private sector interviewee involved in bidding on the Grangegorman project said with respect to this litigation case:

> [I] thought it was a really cheeky to be honest and I've said it to their face but in a nice way because we're all friends together, but BAM were very cheeky to try and challenge on a technicality (P19, 2016)

This interviewee speculated on why BAM took the High Court challenge, suggesting that it was not in BAM's interest to appeal, and surmised:

> I thought to try and win it that way when clearly the other people had been evaluated as the best value for money and cheap was cheeky but you know maybe they think there's compensation that's coming their way and they don't worry about reputation because they're so big they can ride over that. I wouldn't do it because we want to be, keep in with the government and everybody else (P19, 2016)

The interviewee from BAM did not wish to comment on the High Court action other than saying :

> That process is in the public domain (P24, 2016)

Transparency issues surrounding the publication of PPP contract information

The main theme in this section is transparency issues surrounding the publication of PPP contract information and subsequent commercial sensitivity issues. This is of interest as commercial sensitivity is most spoken about in the stage 3 PPP areas of Primary Care, followed by Justice and then Education and least spoken about in the stage 1 and 2 PPP areas of Transport, Environment and the Convention Centre. The research highlights a complex attitude to transparency by different stakeholders and reveals that the drive for transparency is nuanced and not at all straightforward.

In contrast to Ireland, some jurisdictions make PPP contract information publicly available. For example, as was discussed in chapter 2, the Committee of Public Accounts (PAC) report on PPP in 2007, noted that in Victoria, Australia sometime after the PPP contract is signed, it is put on the "Partnerships Victoria" website, although some information can be redacted if it is assessed to be "commercial in confidence" (Dáil Éireann, 2007, p.17). Chapter 2 also discussed the recommendations made by the Committee of Public Accounts in 2007, to adopt a similar approach in Ireland (Dáil Éireann, 2007) to Victoria, Australia where the onus of proof of "commercial in confidence" is on the tenderer to prove that it will adversely affect their business. The report also noted that in Victoria, Australia the parliamentary committee and the Auditor General should have authority to report such commercially sensitive information when it is in the public interest for the information to be revealed (Dáil Éireann, 2007). This research reveals that none of these recommendations has been implemented.

This research indicates that the general concern about publishing PPP contract information centres on commercial sensitivity issues and neither the public nor the private sector interviewees want to publish information on contracts. In the US all public contracts

are publicly disclosed. This was discussed by a private sector interviewee involved in Justice projects:

> every bit of information of what the winning bidder bids (P11, 2016)

The interviewee explained that in the US all publicly procured work is made public.

There is a conflict of interest in terms of revealing information on contracts. The Department of Public Expenditure and Reform is the promoter of freedom of information (FOI), yet, there limited availability of information on contracts under a FOI request, as a private sector interviewee working on the Convention Centre project said:

> There have been various people over the years who have put in a freedom of information request, so certain information has been given out, obviously not commercially sensitive information (P10, 2016)

Despite being the promoter of FOI, the Department of Public Expenditure and Reform, is withholding information, as explained by a public sector interviewee working on a Justice project (P2, 2016). Lack of transparency here has consequences in terms of the ability to communicate value for money on PPP projects to the taxpayer. This interviewee made the point that:

> you can be overly principled about FoI, in other words you can't say, oh absolutely every detail of everything must be out there immediately [but] at some point the taxpayer is entitled to know (P2, 2016)

Unsurprisingly, as a private sector interviewee involved in a consortium said, there is a tendency where the private sector wishes to withhold contract information:

> I'm sure the consortium would want to keep that information fairly confidential (P24, 2017)

However, not all private sector interviewees in this study were equally in favour of withholding contract information. The private sector interviewee who discussed the disclosure of all publicly procured projects in the US explained that if this were to be the case in Ireland, there would be mixed reaction:

> bidders …who are winning will hate it and the guys who are bidding behind it love it (P11, 2016)

Interestingly, this interviewee felt that this information should be available:

> You shouldn't need a freedom of information request to go and look and see what a public body has procured publicly (P11, 2016)

The public sector is not in favour of disclosing contract information, despite the importance of transparency, in particular when it comes to justifying value for money aspects to the taxpayer. The public sector seems eager to withhold contract information, citing commercial sensitivity reasons. This was explained by a private sector interviewee working on Primary Care projects:

> I think because it's so competitive and everybody feels they need to protect themselves as best as they can and if you've done something clever on the life cycle it might be the principles not just the numbers and you don't want to expose this because you're going to do it on the next project and people might just easily get it but there still has to be a way (P18, 2016)

Another concern is that publishing contract information will interfere with the workings of the market and will deter private companies entering the market. For example, one public sector interviewee working on Justice projects said:

> certain things have to be deemed commercially sensitive because the harsh reality of life is that commercial companies won't come in (P2, 2016)

This concern was also shared by a public sector interviewee working on an Education project who felt that revealing information on contracts, particularly where there is a pipeline of projects, could be commercially damaging to the private sector:

> if you're in a pipeline of projects … for an underbidder to see the details of the successful bidder's bid … giving away competitive advantage … you'd want to have quite a lapse of time … for fairness to the bidders (P5, 2016)

Another public sector interviewee working on Primary Care projects said of transparency that:

> it only interferes with the normal working of the markets (P22, 2016)

However, in Victoria, Australia, a state with six million people compared with 4.7 million in Ireland, the publication of this data does not appear to have interfered in the workings of the market.

There is still a lack of transparency surrounding contract information even in well-established contract areas. A private sector interviewee working on Education projects discussed that even on projects that are well established, there is still a commercial sensitivity issue surrounding the maintenance and facilities (P12, 2016). This was emphasised by an interviewee who formerly worked with the NDFA who said that commercial sensitivity could

extend up until the end of the contract and even beyond where the operating life of the asset continues to be managed by the private sector (P4, 2016).

A public sector interviewee working on Environment projects stated that it is important that commercial documents are not made public regardless of whether they are for projects built through traditional procurement or through PPP:

> they're commercial documents and they're generally not available for scrutiny … it's not clear to me that there is that much transparency around it (P9, 2016)

This point was confirmed by a senior public sector interviewee involved in PPP decision making:

> we don't publish contracts, PPP contracts but then we don't publish traditional Exchequer contracts…[I] don't think we're any less transparent than we are on other things (P8, 2016)

However, some interviewees did suggest solutions to overcome this lack of transparency. For example, a private sector interviewee working on Primary Care projects discussed ways of bypassing the release of sensitive information:

> I think condition surveys are one, customer satisfaction surveys would be another that are not commercially sensitive but can still prove the value of the asset and the value of what's been got (P18, 2016)

The interviewee explained that the condition of the asset built under PPP could be compared with the condition of a similar asset built under traditional procurement to assess value for money (P18, 2016).

Taking into account the commercially sensitive information of contracts recently awarded, a former private sector interviewee now working in the public sector suggested releasing information on stage 1 and 2 projects:

> the principle of retrospectively reviewing them and sharing that information … would make sense (P14, 2016)

Several interviewees had similar opinions on releasing information on stage 1 and 2 projects. A private sector interviewee who failed to win a bid on Primary Care projects said:

> I don't know … any benefit of how you approach pricing ten or fifteen years ago would serve any purpose because we've moved on, … there's a whole different way of doing things … what the commercial realities were say twelve years ago they're only relative to the rules that applied then (P16, 2016)

Transparency of PPP reviews and benchmarking

There has been a scarcity of post-project reviews of PPP in Ireland, the rationale being "commercial sensitivity" (Dáil Éireann, 2012a, p.26). The exception to this has been the value for money review carried out by the C&AG on the Pilots Schools Project in 2004 (Comptroller and Auditor General, 2004), a "path-finder" project and the review of the Criminal Courts of Justice (CCJ) project in 2012 (Mazars, 2012).

Caperchione et al. (2017) argue that post-project reviews allow examination of risk transfer and performance evaluation and ultimately the examination of value for money, and Demirag et al. (2011) contend that this results in better management of projects and accountability, thus increasing legitimacy. In the absence of such measures the greater involvement of the private sector in public service delivery can weaken the accountability to citizens and parliament of those responsible for service delivery. Reeves (2013b, p.14), in a presentation to the Nevin Economic Research Institute, has commented forcefully on the serious consequences for public accountability of "the dearth of detailed analysis of PPP" which again gives citizens little to be confident of that PPP arrangements are serving the public interest. The Comptroller and Auditor General has also called for publication of appraisal results to "help improve understanding of the factors that influence obtaining value in public investment projects" and also the publication of post-project reviews to learn lessons for the next project (Dáil Éireann, 2012b, p.7). The Comptroller and Auditor General explained that post-project reviews are a statutory obligation. Specifically, there is a requirements in the guidance from the Department of Public Expenditure and Reform on capital projects that there should always be a "look-back exercise" (Dáil Éireann, 2016, p.29).

Transparency and the publication of post-project reviews are of concern to the public sector. When asked about transparency, the senior public sector interviewee involved in PPP decision-making stated that reviews of projects should be published but not contract details:

> I don't know whether the Department intend to publish it but I think it would be our view that they should be published yeah, there should be transparency (P8, 2016)

There was a plan to carry out a review of schools projects and this was also confirmed by the senior public sector interviewee involved in PPP decisions (P8, 2016). This review will

examine the quality of the buildings but will not examine value for money by way of a published cost comparison between the traditional public procurement approach versus the PPP approach.

The private sector interviewee involved in a consortium spoke about a post-project review of schools and said:

> it could be a difficult exercise to do because … you'd have to put a cost on, a subjective cost on all those things … the evidence may not be favourable on PPP but you talk to the stakeholders on the ground they think it's absolutely excellent and how they are able to continue on with the day to day services (P24, 2016)

The interviewee concluded that a post-project schools review may be a difficult undertaking and may not be favourable towards PPP. Perhaps this contributes to the reluctance of the Department of Education and Skills to undertake such an exercise.

It is interesting that a private sector interviewee who works for a successful bidder on the Primary Care projects was anxious that value for money be demonstrated to the taxpayer and suggested that Ireland follow the lead of Canada in being more transparent:

> I think there has to be a way to publish more and maybe if you look … at … value reports … in Canada that [are] … done at the end of the project (P18, 2016)

The interviewee went on to say:

> I think sometimes people are scared that if they just show numbers and the numbers are too big they … get negative reaction, I think … that the model is viable and sustainable (P18, 2016)

The public sector interviewee involved in Primary Care projects spoke of their intention to carry out a post-project review:

> we'll do one …, between now and possibly the next PPP project so even though we haven't concluded this one yet I think before we sit down and start to plan the next one in detail we will look at what we did on this project and what we have learnt … what mistakes we made, what we could do differently this time and … it will certainly influence how we develop the next project going forward (P22, 2016)

When asked about whether this will be published, this interviewee said:

> we wouldn't traditionally publish post-project reviews … they are very much internal things (P22, 2016)

Summary of 5.3.2.1 Transparency

The pilot study outlined in chapter 4 indicated that although value for money assessments are given central importance by the Irish government, full evaluation has not taken place because of commercial sensitivity issues and this has sustainability implications for Ireland (Sheppard and Beck, 2016). However, when the pilot study was extended in 2016, the research found that there is transparency in some areas of PPP and a lack of transparency in other areas (see Appendix O for further detail). There is a clear lack of transparency surrounding the decision to go down the PPP route and this weakens the predictability in decision-making, which is strongly recommended by Matos-Castaño (2011). A lack of transparency surround the publication of the basis on which PPP proposals are evaluated and published, beyond some tentative publication of the capital envelope on a stage 3 Education project. There is also a lack of transparency surrounding value for money testing which would appear to be a concern for the private sector in stage 3 projects, with the private sector being eager to demonstrate value for money to the taxpayer at this stage.

There is a lack of transparency surrounding the PSB despite a call from the C&AG who advised that the PSB be published. Publishing this is also recommended in the literature by, for example, Jooste et al. (2009). There is criticism of the PSB from some of those involved in PPP since stage 1 PPPs. This may have led to a reluctance to publish it, resulting in an evolving culture of secrecy in the public sector around this issues and an ongoing suspicion about the calculation of the PSB. The Department of Education and Skills has gone some way to address this by publishing the PSB as a total figure, but the absence of the breakdown of this figure limits its usefulness. A lack of transparency weakens legitimacy as it makes it difficult to demonstrate value for money to the taxpayer.

Regarding the transparency of the bidding process, which Jooste et al. (2009), Matos-Castaño et al. (2012) and Matos-Castaño et al. (2014) argue should be conducted in a transparent way, the findings of this study are mixed. There is transparency surrounding the bidding process and interviewees believe the bidding process to be fair to those involved, although that is just for the bidders involved as there is little or no transparency for the taxpayer. Some of this transparency is due to the procurement process being governed by EU legislation and this being, therefore, normal practice in public sector procurement. Views are mixed on transparency in terms of feedback given to bidders at meetings with the NDFA, the reason being fear of litigation on the part of the NDFA. There is transparency in feedback

given to unsuccessful bidders. This is due to the need for transparent reasoning as a means to discourage potential litigation by unsuccessful bidders. There is mixed transparency in terms of feedback given to bidders. This may be due to the NDFA's wish to be fair or to be seen to be fair and again its fear of litigation from the bidders involved. In the bidding process transparency can increase or decrease. If it decreases, bidders may feel the process is not open and transparent and this may interfere with their inclination to bid. However, if transparency increases and there may be a perception by bidders that there is too much transparency, this may deter them from bidding as they do not wish their bids to be published.

There is a lack of transparency surrounding the publication of PPP contract information, which obviously weakens the overall transparency of PPPs. Most interviewees were of the opinion that there should be transparency surrounding the publication of PPP contract information so that the taxpayer could understand value for money based decisions. However, as the market is very competitive, this concern for transparency is overridden by commercial sensitivity. Both the public and private sector interviewees maintain that the publishing of commercially sensitive information would interfere with the workings of the market. This concern covers new PPP contracts as well as those that are well established, even though sharing information on stage 1 and 2 PPP projects would make sense. Transparency surrounding the publication of PPP data increases the overall transparency, which should lead to increased political support and ultimately increasing legitimacy. If there is a lack of transparency surrounding contract information, this impedes oversight, leads to suspicion and thus weakens the legitimacy of PPP.

In terms of the transparency of post-project reviews, the only sector to have carried out such reviews and published them is the Courts Service and to a limited extent the C&AG who conducted a value for money review of the Pilot Schools Project. However, there was criticism from public sector interviewees and a private sector interviewee that the CCJ review was carried out too soon after the project became operational. The scarcity of such published reviews weakens the overall transparency of PPPs

It is the intention of the Department of Education and Skills to carry out a post-project review of the Pilot Schools Bundle but the publication of costings is unlikely to be as part of this review. In terms of Primary Care, a post-project review will be carried out and it will be an internal review and the interviewee from this sector does not know if it will be published.

The Criminal Courts of Justice (CCJ) complex is a one-off PPP project and there was eagerness by interviewees to demonstrate VFM. However, the Schools and Primary Care projects are long-term projects and there seems to be a reluctance to publish post-project

reviews.

Where there is transparency, it certainly increases the likelihood of legitimacy, as in the case of the CCJ. However, in the case of the Schools bundles and the Primary Care projects where no post-project review has been carried out, the failure to do so leaves a question mark over their value for money and is clearly out of sync with the views laid down by Jooste et al. (2009) and other researchers who contend that it is essential to keep the public well informed.

The withholding of contract information due to commercial sensitivity may be a legacy from the UK. There is a similar lack of transparency and little external scrutiny in UK PFI projects (Shaoul et al., 2009, p246). Other countries such as Canada and Australia are not as concerned about commercial sensitivity and find ways to circumvent it. The pilot study revealed evidence of policy transfer in that Ireland adopted virtually all aspects of UK style PPP (Sheppard and Beck, 2016) and it appears that this could have been transfer without reference to lessons learnt from countries such as Australia and Canada. As *6.2.2.1 Learning from UK PFIs* will reveal, Ireland has drawn mainly on the experience of the UK in implementing PPP. This suggests that mimetic isomorphism has taken place with little adaptation of the policy or little learning, particularly with regard to value for money calculations. This potentially weakens the legitimacy of PPP in Ireland and gives rise to concerns over the sustainability of this policy.

5.3.2.2 Legal and regulatory framework

The literature suggests that a well-supported legal and regulatory framework is necessary to create favourable investment environments leading to successful and sustainable PPP programs (Jooste et al., 2009). Verhoest et al. (2015) argue that this framework should have clear policies which support the implementation of PPP and which are applied consistently. Previous research has shown that if countries adopting policies do not adapt them to suit their institutional environment, this can lead to problems with legitimacy (Sheppard and Beck, 2016). This lends legitimacy to PPP implementation. A legal and regulatory framework should take the form of standardised contracts and documents. It should ensure policies are able to accommodate change, that the public and market are consulted in policy development, that there is political commitment and that there is legal capacity to handle PPPs (Jooste, 2010). Petersen (2011) contends that policies and guidance materials should clearly set out regulations such as accounting regulations, EU regulations on public procurement, risk transfer and on/off-balance sheet accounting. The creation of a clear legal and regulatory framework for PPP has been a problem in other countries, such as Denmark.

Verhoest et al. (2015) also states that it is imperative that there are regular updates of PPP policy documents. Vrangbaek (2008) maintains that the lack of a clear legal and regulatory framework can be an impediment to creating a buoyant PPP market because it can act as a deterrent to the private sector.

Ireland has a well-established legal and regulatory framework for PPP procurement in place which is supported by PPP legislation and has been amended and updated. Petersen (2011) and Bovis (2010) argue that since PPP was introduced into Ireland in the late 1990s, the introduction of policy and regulation has supported the roll-out of large-scale use of PPP. The pilot study outlined in chapter 4 found evidence of a consistent legal framework which appears to be in place to support the implementation of PPPs (Sheppard and Beck, 2016). When the pilot study was extended in 2016, the research found that there were problem with this framework.

Two policy windows occurred which changed Ireland's PPP policy and regulation. First, in 2002, policies were introduced which gave control of PPP deals and risk transfer to government. Second, in 2005, the NDFA was established to take over the planning of PPP projects. Petersen (2011) purports that these policy windows led to a centralisation of Ireland's PPP policy, regulation and procurement functions within a few central government departments and agencies. The senior public sector interviewee involved in PPP decision-making confirmed that amendments to Acts have since taken place:

> the 2007 NDFA Act … [has] now been overtaken by the NTMA Amendment Act of last year which officially gave the NDFA the procurement function and … project management (P8, 2016)

A PPP consultant who worked on stage 1 and 2 PPP projects (P6, 2016) spoke of guidelines being developed with a large accounting firm at the beginning of the PPP project. However, the Irish guidance material has not undergone an overhaul since 2006, as confirmed by a senior public sector interviewee involved in PPP decisions:

> we are hoping to do that this year [2016] because a lot of things have changed since 2006 even in terms of capital appraisal guidelines are discussed in it whereas now it's the public spending code and it's just to update all those, basically look at the whole thing afresh, update it for all the things that have changed but also for all the lessons we've learned in the meantime because we've issued a lot of clarifications since the guidelines were out where people think they mean one thing and we say no, that's not what they mean and we clarify (P8, 2016)

This has led to a very segmented approach to updating guidelines, as this interviewee discussed:

> there's still tweaks we need to make to the guidance to reflect changes that have been applied since … they were originally written, but effectively they are being enforced with the tweaks now because when we give guidance we update it, so we hope that the rules and procedures and everything that are there are working ok (P8, 2016)

Interviewees discussed the origination of PPP contracts but there is no discussion of their evolution. For example, a public sector interviewee who worked on Environment projects described the origination of the PPP contracts as:

> a suite of documents for PPP contracts were drawn up, probably about 15 years ago (P9, 2016)

A public sector interviewee involved in Justice projects spoke of the current contract format as: "a version of the original one we developed" (P7, 2016). Another public sector interviewee working on Justice projects and who has worked on pre- and post-crisis projects also spoke of how the contract format:

> got bedded down I suppose after that first initial wave (P15, 2016)

None of the interviewees spoke of how the contract format has changed or evolved. Considering that the original contract format had been developed more than 15 years ago at the time of the interviews, the market has evolved and Ireland has experienced a financial crisis, it would be expected that the PPP contract format would have gone through numerous iterations. This is of concern, as previous research has shown that if countries adopting policies do not adapt them to suit their particular environment, this can lead to problems with legitimacy (Sheppard and Beck, 2016).

The NDFA has now taken over the running of PPP contracts, which leads to a perception by the public sector that the NDFA's involvement leads to a consistent and

standard approach to contract application, as discussed by a public sector interviewee working on Justice projects:

> the NDFA as you know have been taking a central role in procurement of these projects and they like rigidly adhering to the standard contract (P7, 2016)

This was also confirmed by a public sector interviewee working on Education:

> I'd have to …admit that the National Development Finance Agency, which are there as the state advisers in this … have a very well-established set of documents and procedures at this stage (P5, 2016)

There is a belief in the public sector that the NDFA's involvement in the application of the contract process leads to fairness. The assertions made by the interviewees above support the earlier claims that the NDFA is process driven. However, its process-driven approach was flexible when it came to the awarding of the Grangegorman contract which led to the High Court action taken by BAM (see *5.3.1 Lead Institutional Support*). It does not always follow, therefore, that the NDFA's involvement necessarily leads to a strong legal and regulatory framework.

The PPP contract formats and documents that are in place appear to be predictable and consistent and interviewees are familiar with the whole contract process. A public sector interviewee involved in Justice PPPs said:

> in the recent bundle those bidders that have been active in the Irish market seem to have an advantage over those bidders who are not or who are new entrants because they are familiar with the contract documentation, the procedures, the marking schemes etc. (P7, 2016)

This predictability of contract formats is considered to be an advantage to the private sector, in particular to bidders and bankers (P14, 2016). This is confirmed by a private sector interviewee working on Education projects:

> I mean we live by the contract … It runs everything we do … everything we schedule on the help desk, it runs how often we have to respond to that … It tells us what's available what is unavailable, it tells us a penalty for every room (P12, 2016)

However, other private sector interviewees spoke of PPP contracts being restrictive. For example, a private sector interviewee working on the Convention Centre project said:

> all the way through there are certain clauses within our contract that because they're standard and they weren't adjusted for us, are then a bit restrictive (P10, 2016)

Another private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to work on Social Housing projects pointed out that they would not consider current contract formats to be "standard":

> standardised contracts no … the lawyers make a lot of money each time round … in terms of working out what the actual agreement is, I'm not so sure what jurisdictions do have standard contracts in that regard (P13, 2016)

There are criticisms of the contract process being cumbersome, particularly in PPPs with more complex builds. A public sector interviewee working on projects pre- and post-crisis spoke of contracts being "elaborate" (P15, 2016). The same interviewee spoke of a contract process that they were involved in as:

> a very complicated and slow process ... almost over documented (P15, 2016)

Views of the contracting process appear to differ according to whether an interviewee won or lost a bid. For example, a failed private sector bidder on the Primary Care project spoke of the contract process being "convoluted" (P16, 2016), whereas another private sector interviewee who works for one of the successful bidders on Primary Care spoke in more accepting terms of the contract, saying:

> that's the contract like it or not, if you want to be part of that process you have to accept that contract (P18, 2016)

Another private sector interviewee involved in Education projects and a successful bidder in the Grangegorman project spoke of the contract process in more sanguine terms:

> sometimes there can be quite a contentious … situation you know if you're talking about penalties [but] there is an opportunity to put your position (P12, 2016)

It is interesting to note that this interviewee is involved with Justice projects which include historic buildings and which have architectural risks associated with them, making the contractual process more complex. A public sector interviewee involved in the Primary Care PPPs, where buildings were built on greenfield sites indicated issues related to contractual specifications did not arise in this context.

There is confusion among interviewees about sharing profits between the public and private partners in a contract. For example, one private sector interviewee involved in the day-to-day running of a PPP facility said:

> I don't know, I'd have to check that. That hasn't been seen because that was based on revenues (P10, 2016)

The same interviewee highlighted confusion about profit sharing and financial penalties associated with the unitary charge:

> there's a sort of profit share arrangement whereby the OPW are entitled to money back on the unitary charge but that's very much based on financial targets (P10, 2016)

Contracts have been used successfully to establish service level agreements, which are used for accountability purposes and which form the basis of awarding penalties for non-delivery of services. One public sector interviewee involved in Environment projects said:

> Generally the contract provides the accountability. The service must be fully defined in it as regards customer/user outcomes. Thereafter, the supervision was by way of audit (P9, 2016)

There does appear to be scope to amend contracts, particularly service level agreements in facilities contracts, as a senior public sector interviewee involved in PPP decision-making discussed:

> there are areas where there is some rebalancing for instance I think on the schools on most of the recent contracts there's a five year review of kind of the soft services (P8, 2016)

One public sector interviewee involved in Justice PPPs spoke of negotiating contracts four years in advance of operation and how there need to be scope to amend the opening hours of the facility during the downturn to save money (P7, 2016). Another private sector interviewee involved in the Convention Centre project spoke of their public sector partner in the context of changing contracts as being:

> nervous about anything being proposed because they think, well are we trying to gain an advantage over them and in many respects that's not the case we're just trying to make something more straightforward (P10, 2016)

There is the facility to terminate a contract, but as one private sector interviewee involved in Primary Care PPPs said:

> I think even when we're negotiating we spend so much time making sure that we're not terminated and the reality is that's really a super last resort (P18, 2016)

Summary 5.3.2.2 Legal and regulatory framework

The pilot study outlined in chapter 4 found evidence of a consistent legal framework which appears to be in place to support the implementation of PPPs (Sheppard and Beck, 2016). However, when the pilot study was extended further in 2016, the research found there were problems with this framework. Policy guidelines were introduced in 2006, but there has been a very segmented approach to updating these guidelines. Interviewees discussed the origination of PPP contract formats largely in positive terms, but it appears that very little evolution of these contract formats has taken place, suggesting a weak institutional environment leading to problems with legitimacy. While the involvement of the NDFA in the running of PPP contracts is seen positively, in light of the earlier assertions (see *5.3.1 Lead institutional Support)* that the NDFA's process-driven approach is inflexible, this involvement does not necessarily create a strong legal and regulatory framework. Similarly, while the contract formats that are in place are predictable and provide consistency for the private sector, they have been criticised for being elaborate and convoluted. Overall, there are mixed results in terms of the legal and regulatory framework. The involvement of the NDFA in the process and its flexible approach to applying rules along with its fragmented approach to updating guidelines and contracts, has the capacity to weaken the legitimacy of PPP.

5.3.2.3 Political commitment

The literature suggests that ensuring political commitment is essential for a successful PPP programme (Verhoest et al., 2015) (Matos-Castaño, 2011). Jooste (2010) and the Public-Private Infrastructure Advisory Facility (2007), housed within the World Bank, contend that PPP units will tend to struggle when senior politicians do not support the PPP programme. This makes it essential for governments to demonstrate political willingness to undertake PPPs (Matos-Castaño et al., 2012) as this will support project success and sustainability (Matos-Castaño 2011), (Jooste et al., 2009), (Matos-Castaño et al. Matos-Castaño; Verhoest et al. 2015). Matos- Castãno et al. (2012, p.12) argue that one way of ensuring political commitment is to have a PPP programme supported by a "political champion" who will assist in identifying potential PPPs and ensuring they are procured efficiently.

Political commitment to PPP may be based on ideological grounds (Vrangbaek, 2008), by being for instance part of a "Third Way" ideology or a modernisation agenda that seeks to bring elements of the public and private sectors together (Flinders, 2005, p.218). Vrangbaek

(2008) asserts that politicians often favour PPP as it focuses on service delivery, leaving the concerns of accountability and control to government bureaucrats. However, Flinders (2005) states that other politicians are opposed to PPP on ideological grounds as they inherently reject a profit-making motive in certain core public service delivery.

Political commitment to PPP should be long term (Verhoest et al., 2015) as a short-term focus can foster a lack of transparency and a lack of accountability. It is necessary to reassure the private sector that in the event of a change in government, PPP support will continue (Mahalingam, 2011) because PPPs represents a long-term contractual commitment (Vrangbaek, 2008). Verhoest et al. (2015) propose that it is necessary, therefore, for political commitment to PPP to be expressed by the main political parties. Also, a lack of political consensus on policy issues such as PPP can affect the degree of policy transfer (Birrell, 2012).

The pilot study outlined in chapter 4 found evidence of strong political commitment to PPP in Ireland (Sheppard and Beck, 2016). However, when the study was extended in 2016, it was found that political commitment to PPP is nuanced and influenced by more factors than had initially surfaced in the pilot study.

Ireland's historically poor infrastructure compared with other European countries made PPP attractive for government (Petersen, 2011), and initially it would appear that there was political commitment to PPP. PPP was introduced primarily on an ideological basis and there was a political champion. When asked about political commitment to PPP, only six interviewees spoke of when it was first introduced, and all six agreed that there was political commitment and its introduction was on ideological grounds:

> I mean there are certainly ideological reasons … it was Charlie McCreevy was the Minister at the time so I mean and Charlie kind of was a big fan of the private sector (P4, 2016)

It was also noted by another interviewee that PPP was championed by Charlie McCreevy:

> it was an option that he chose ideologically but I think it was an option that politically found resonance (P17, 2016)

As discussed in chapter 2, PPP formed part of the implementation of the economic liberalisation policies of the then Minister for Finance, Mr. Charlie McCreevy TD. Interestingly, PPP was promoted at a time when the country could borrow easily, as discussed by the public sector interviewee who has worked on PPP Transport projects since stage 1:

> we were fairly flush in terms of the money at the time of the economy, we were getting big exchequer grants every year and then PPP was … an additive … thing so we did it at a time when it wasn't necessary (P3, 2016)

PPP was seen as an alternative procurement model, as an interviewee who formerly worked with the NDFA noted:

> I think it's fair to say though kind of that it was something, it certainly wasn't pushed on us, right I mean there's no external force saying, you have to do this right, kind of that I am aware of anyway kind of, I think it was very much the government seen this as something that they would like to try and something they'd like to do in a limited way (P4, 2016)

Political commitment continued until the financial crisis, when PPPs were cancelled by government. As this interviewee noted:

> once you got to 2008 government realised it couldn't continue with some of the schemes that they've had on the bid because of financial difficulties (P11, 2016)

There seemed to be consensus among interviewees that later on PPP became a politically expedient procurement method. This was the case particularly during and after the financial crisis. Thus a private sector interviewee involved in Justice projects noted that:

> there hasn't really been that many alternative options for government (P11, 2016)

which has made PPP a means to an end:

> I think there is political drive to deliver the projects they want to deliver and they're not afraid to use PPP to do that … think they are happy enough to have themselves photographed shaking the hand of the new school head teacher when they get the keys to the brand new school (P11, 2016)

However, the private sector interviewees tended to be uncertain about the level of political commitment to PPP. As one interviewee noted, in one case it required the Minister to show up at a PPP announcement to demonstrate commitment:

> when we were bidding [on] the court scheme one of the reasons we bid it was because when the Minister for Justice showed up actually in this hotel, to say, I'm standing behind this project it's going to happen (P11, 2016)

The general consensus among interviewees was that there is still political commitment to PPP. This was noted by a public sector interviewee involved in Primary Care projects who

spoke about PPP post crisis and discussed the stimulus programme and Infrastructure and Capital Investment Plan 2016 – 2021 as being an example of political commitment:

> yes there would have been a huge amount of political emphasis on this stimulus package (P22, 2016)

This view was supported by a senior public sector interviewee involved in PPP decision-making who said:

> I think Ministers are committed (P8, 2016)

Interviewees spoke of the reasoning behind political commitment to PPP post crisis. It would appear that political commitment now is due less to an ideology and more to political pragmatism. Politicians will choose the method of delivery that better suits their aims and objectives. For example, a public sector interviewee working on Transport projects stated that PPP is a way for Ministers to get things done:

> Ministers want schemes done, they don't particularly care how it's done but I don't believe there is support for PPP (P3, 2016)

This interviewee suggested that PPP is seen as an alternative procurement method and there is less of an ideology around choosing it:

> it's not even an ideological thing it's more just a lack of championing and lack of really seeing what the benefit would be (P14, 2016)

The interviewees also indicated that there is currently no longer a clear political champion of PPP. A former private sector interviewee now working in the public sector stated that PPP:

> [is] certainly lacking a champion among the political ranks (P14, 2016)

Interestingly the private sector considers there to be far less political commitment to PPP than the public sector. For example, a former private sector interviewee now working in the public sector gave an interesting insight into political commitment to PPP:

> No it hasn't had the political buy-in (P14, 2016)

It is also interesting to consider how the sectors the interviewees are working in and how this reflects their perception of existing political commitment to PPP. For example, a public sector interviewee working on Transport projects expressed the view that there is no political commitment to PPP:

> I wouldn't think there's huge support for … it's been a means to do things … it's not that people like it (P3, 2016)

This interviewee is working in the area of Transport and there were no new Transport

projects in the recent Infrastructure and Capital Investment Plan 2016 - 2021. However, those working on Justice projects, of which new projects feature in the plan, spoke more positively about political commitment, with a public sector interviewee saying:

> the current Minister Frances Fitzgerald, she's a background as a social worker working in the family support area, so for her because the, we've got very poor family law facilities at the moment the idea of actually having a dedicated family law centre there is very attractive politically (P7, 2016)

This could be perceived as PPP being seen as a means to an end rather than political commitment. It supports the point made earlier that PPP is now perceived as a useful pragmatic procurement method and there is less ideology driving it.

A private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to be involved in Social Housing PPPs nonetheless spoke of favourable political commitment to PPP. This interviewee gave as examples of political commitment new initiatives, banking competitions and having planning permission and design in place introduced by the government post crisis to stimulate the PPP market (P13, 2016). However, this interviewee was speaking of political support in Justice projects and the interviewee hoping to work on Social Housing PPPs may interpret pragmatism in using PPP as a procurement tool as evidence of political support.

Ireland's political commitment to PPP can perhaps be summed up by a member of the Committee of Public Accounts who said that many on the committee remain to be convinced that PPP is "the right way to go" (Dáil Éireann, 2016, p.37), suggesting there is only weak political support for PPPs.

The extended study found that there are distinct factors which influence the degree of political support for PPP and these are the on-off balance sheet commitment to PPP; political support and understanding of PPP; the speed of PPP project delivery; and political planning, decision-making and attitude to risks in PPP. The following sections explore these themes in further detail.

<u>On-off balance sheet commitment to PPP</u>

The interviews drew light on factors that influence political commitment to PPP. One such influence on political commitment is the off-balance sheet nature of PPPs. As discussed in *5.3.2.2 Legal and regulatory Framework,* PPP policies and guidance materials should clearly set out regulations regarding on/off-balance sheet accounting. There have been problems in the past and also recently with off-balance sheet rules. Ireland experienced

problems with EU regulations regarding on/off-balance sheet issues with the first pilot PPP projects, but this was rectified with legislation introduced in 2002 and 2005 (Petersen, 2011). There does appear to be continued political commitment to keeping PPPs off-balance sheet, as discussed by a private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to be involved in Social Housing projects. This interviewee said there is:

> political commitment to moving money off-balance sheet (P13, 2016)

However, in 2016, Eurostat indicated that a large portion of Irish PPPs should be brought back on-balance sheet[15]. This suggestion was discussed by a public sector interviewee working on Primary Care projects who surmised that if PPPs were to move back on-balance sheet, then many projects may not move forward as PPPs (P22, 2016). This would have significant implications for the whole PPP project and would adversely affect political commitment and the legitimacy of PPPs in Ireland.

Political support and understanding of PPP

Political support and understanding of PPP is another influencer of political commitment identified in the research. There was a consensus among both the private sector and public sector interviewees that there is a lack of understanding of PPPs on the part of politicians. It was acknowledged by a private sector interviewee, who had failed in their bid for Primary Care projects, that political support for PPPs is required for it to happen (P11, 2016).

The research indicates that there appears to be a lack of understanding of PPP on the part of politicians. Even though there appears to be commitment to PPP in the current infrastructure and Capital Investment Plan 2016 – 2021 and PPP thus showed itself to be a useful procurement method during the financial crisis, there does appear to be a lack of political understanding of PPP. A former private sector interviewee now working in the public sector noted that there is:

[15] Irish Times, "EU statistics agency move could limit government spending", Fiach Kelly, 6 May 2016.

> a lack of understanding … and … a lukewarmness at best from the politicians … it's hard for politicians to get their heads around the complexity and the time involved … is a lack of understanding, people don't understand what a Public Private Partnership is, what the different types of PPPs are, what they really mean, what the risk transfer is really about and it's a hard one for a politician to get his head around or her head around (P14, 2016)

This was supported by a private sector interviewee who was successful in winning Primary Care projects and who discussed of politicians:

> I'm not convinced that they get … the benefits or it's high on their agenda (P18, 2016)

Similarly, a public sector interviewee involved in Justice projects said in relation to politicians' understanding of PPP:

> they just talk off the top of their heads (P15, 2016)

This lack of political support and understanding of PPP has significant implications for the whole PPP project, and as the final decision lies with the Minister, it would call into question whether informed decisions are being made.

Speed of project delivery

Another influencer of political commitment to PPP is the speed of project delivery and how this affects PPP procurements fit into the short political cycle. Political support is connected to the speed of delivery of new projects as politicians want to be seen as bringing projects on stream. Interviewees noted that politicians are not averse to using other procurement methods if the project is delivered faster. The PPP process was described by a public sector interviewee as being: "slow and tortuous" (P15, 2016) and by a former private sector interviewee working in the public sector as:

> having a name for being slow (P14, 2016)

This results in PPPs not always being favoured by politicians.

An example of the lack of political support for PPP due to slow delivery is the case of new Garda stations. Originally they were to be delivered through PPP but now they are to be delivered through traditional procurement. A public sector interviewee working on Justice projects discussed:

> the previous Minister for Finance or Expenditure and Reform found out how long they were taking [and] … he asked me, could they be done quicker? And I said, yes we can do them quicker and in fact we did (P15, 2016)

Another example of this is Primary Care. A private sector interviewee involved in Primary Care explained that originally all Primary Care Units were to be delivered through PPP but this was reduced as politicians wanted the units built promptly. Eventually the number to be delivered through PPP:

> got chopped down … they have the site but of course … every local TD wanted it … on the[ir] list … and I think there's infighting politically (P19, 2016)

However, a senior public sector interviewee involved in PPP decision-making commented on the speed of PPP procured projects as follows:

> I think there's a certain element of frustration because you know government announces these projects and they think they're going to deliver them and PPPs, because of the kind of contract they are, they're like a lightning rod for issues … the more recent ones have been bundles of projects rather than one big project, and therefore the project can only move at the pace of the slowest (P8, 2016)

Political commitment to PPP is affected by the political cycle which in turn is weakened when project delivery is slow. Politicians' influence can only be demonstrated in a very short window of time, that is, while in office. Thus politicians tend to make decisions that will be implemented within their term of office. Some interviewees noted that PPP is considered to be a slow method of delivery and politicians prefer a quicker method of delivery, that being traditional procurement. This can cause problems for the public sector which plans for the long term, as one public sector interviewee working on Justice projects explained:

> politicians think in time spans of the next election … we've to think wider than that (P15, 2016)

A private sector interviewee working on Justice projects was of the view that PPPs offer a long-term way of dealing with procurement and effectively overcoming the short political cycles that politicians operate in (P11, 2016). This represented an interesting scenario in that PPP was seen as a means of fostering a long term perspective on policy-making.

Political planning, decision-making and attitude to risks

Political commitment to PPP is also influenced by political planning, decision-making and attitude to risks. Announcements of new capital projects in Ireland have been unclear as to how much will be developed through PPP, leading to confusion and uncertainty among the private sector. A former private sector interviewee now working in the public sector described the uncertainty of the delivery of new capital projects:

> Sometimes the announcements can be driven by political announcements around overall programmes (P14, 2016)

This point was reiterated by another private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to work on Social Housing projects. They discussed the announcement of Social Housing projects in the infrastructure and Capital Investment Plan 2016 - 2021. The interviewee described the lack of information on the specifics of project delivery as follows:

> there are quite a number of moving parts to housing and I don't think they're all fully understood. Well there certainly isn't a … rounded commitment there but hopefully … with Coveney behind it he may do something (P13, 2016)

Another influencer of political commitment to PPP is political risk. This includes factors such as overcommitting to delivering through PPP and a change in government. It is interesting that political risks were not as important an influencer of political commitment to PPP for interviewees as might have been expected considering the short-term nature of the political cycle and the long-term nature of PPP.

A private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to work on Social Housing projects expressed concern that the government has overcommitted to a programme of delivering though PPP and spoke of the fallout from the cancelled PPPs during the financial crisis:

> I think the risks from the government's point of view are they commit to a programme which they can't follow up on and that is reputational damage (P13, 2016)

A change of government and in particular a change of political party was also a concern to interviewees. For example, a private sector interviewee working on Education projects during the 2016 general election said:

> I mean they've published that Capital Plan … I don't see them rowing back on it, I can't see Fianna Fáil wanting them to row back on it, it would be more if not less (P12, 2016)

Another former private sector interviewee now working in the public sector spoke of political risks in terms of certain political parties being "anti-private sector" (P14, 2016). For example, one private sector interviewee working on Justice projects discussed a concern if Sinn Fein were to get into power:

> the new political parties like Sinn Fein I think you'll find that they will be quite against a private element in the public infrastructure (P11, 2016)

Summary 5.3.2.3 Political commitment

The PPP programme in Ireland would not have commenced had there not been political commitment to it. Initially this support was largely ideological. The pilot study outlined in chapter 4 found evidence of strong political commitment to PPP in Ireland (Sheppard and Beck, 2016). However, the PPP programme stalled during the financial crisis as projects were cancelled. The PPP programme has resumed post crisis and the extended study in 2016 has found that political commitment to PPP has continued, albeit in a weak form, and without a political champion, which puts PPP on a less ideological and more pragmatic track. Verhoest et al. (2015), and Matos-Castaño (2011) highlighted the need for political commitment and this research finds this to be weakened by the ongoing controversy surrounding the on-off balance sheet debate, weak political support and a lack of understanding of PPP. Moreover, an existing short political cycle, which is not suited to the slow nature of PPP delivery, and uncertainty, a confusing political planning and decision-making process, and political risks all add ambiguity to long-term commitment-making. This in turn weakens the potential legitimacy of PPP and seriously questions the long term sustainability of this policy.

Summary 5.3.2 Political support

The literature discusses the importance of providing a stable political environment (Jooste et al., 2009; Matos-Castaño et al., 2012; Matos-Castaño et al., 2014), political willingness for PPP (Matos-Castaño, 2011) in the form of a political champion, and a transparent and consistent PPP unit which disseminates information, all of which contribute towards the legitimacy of PPP.

In *5.3.2.1 Transparency* it was found that there is transparency in some areas of PPP and a lack of transparency in others. There is a clear lack of transparency surrounding the

decision to go down the PPP route, the need for which transparency is considered important by writers such as Matos-Castaño (2011). There is also a lack of transparency surrounding value for money testing.

There is also a lack of transparency surrounding the PSB, and this continues to be the case despite a call from the C&AG who advised that the PSB be published. There are mixed results in terms of transparency of the bidding process which Jooste et al. (2009), Matos-Castaño et al. (2012) and Matos-Castaño et al. (2014) argue should be conducted in a transparent way. There is transparency surrounding the bidding process and interviewees believe the bidding process to be fair to those involved, although that is just for the bidders involved as there is no transparency for the taxpayer.

There is a lack of transparency surrounding the publication of PPP contract information, which is out of line with recommendations by Khadaroo (2008), Boardman and Vining (2012) and Vining and Boardman (2008a). In terms of the transparency of post-project reviews, the only sector to have carried out a post-project review and published it is the Courts Service and to a limited extent the C&AGs' value for money review of the Pilot Schools Project. In summary the overall lack of transparency weakens the legitimacy of PPP in Ireland and causes serious concerns over the sustainability of this policy.

In *5.3.2.2 Legal and regulatory framework* it was found that there are issues with the legal and regulatory framework surrounding PPP. Policy guidelines were introduced in 2006, but there has been a very segmented approach to updating these guidelines. Interviewees discussed the origin of PPP contract formats but it appears that very little evolution of these contract formats has taken place, suggesting a weak institutional environment which could contribute to problems with legitimacy. While the involvement of the NDFA in the running of PPP contracts is seen positively, in light of the earlier indications, in *5.3.1 Lead institutional Support*, that the NDFA's process-driven approach is inflexible, its involvement does not necessarily contribute to a strong legal and regulatory framework. The contract formats that are in place are predictable and provide consistency for the private sector, but they have also been criticised for being elaborate and convoluted. Overall, there are mixed results in terms of the existing legal and regulatory framework. The involvement of the NDFA in the process and its flexible approach to applying rules along with the fragmented approach to updating guidelines and contracts seems to weaken the legitimacy of PPP.

In *5.3.2.3 Political commitment* it was found that the PPP programme stalled during the financial crisis as projects were cancelled, but the PPP programme has resumed post crisis. The study found that political commitment to PPP has continued, albeit in a weak form,

without a political champion and in a less ideological and more pragmatic way. While Verhoest et al. (2015) and Matos-Castaño (2011) point to the necessity of strong political commitment to PPP, political commitment to PPP is weakened by the ongoing controversy surrounding the on-off balance sheet debate in Ireland, as well as weak overall political support and a limited understanding of PPP. A lack of political consensus on a policy such as PPP will affect the degree to which that policy is adopted (Birrell, 2012). Also noted is a short political cycle, which is not suitable to the slow nature of PPP delivery, uncertain and confusing political planning and decision-making, and political risks, which add ambiguity to long-term commitment-making. This in turn is again likely to weaken the legitimacy of PPP and seriously questions the sustainability of this policy.

In summary, *5.3.2 Political support* suggests that the contribution of political support to the legitimacy of PPP is limited with serious concerns regarding transparency, a flexible approach to applying rules along with a fragmented approach to updating guidelines and weak political commitment to PPP.

5.3.3 Stakeholder Consent

Reeves (2013a) argues that stakeholder participation in PPP is important and should be meaningful. The literature suggests that PPPs are more likely to gain legitimacy when governments have the support of stakeholders (Mahalingam, 2011). Matos-Castaño et al. (2012, p.5) argue that public support and advocacy for PPP is brought about through "effective communication" and knowledge dissemination and Opara (2014, p.85) suggests that his requires highlighting PPP success stories, developing "a history of projects with private sector involvement" and through the development of regulation and oversight. This is referred to in the literature as an enabling environment where all the relevant stakeholders are "convinced and well-informed" through the development of an effective communication strategy (Delhi and Mahalingam, 2012, p.1485). The United Nations Economic Commission for Europe (UNECE) (2008) advises that this consultation process should include information on what PPPs are for those unfamiliar.

Jooste et al. (2009) state that stakeholder consultation is imperative in the PPP process, and will improve accountability of PPPs. Reeves (2013a) argues that it will lead to a transparent and more successful PPP process and Mahalingam (2011) states that consultation will clarify expectations among stakeholders, prevent misunderstandings and mitigate against unrealistic expectations of what PPP can achieve. Matos-Castaño (2011) and Jooste et al.

(2009) assert that a consultation process should take place at every stage of the PPP process.

In November 2001, an Irish PPP Advisory Group published a "Framework for Public Private Partnerships - Working together for quality public services". This group initially involved representatives of IBEC, trade unions, the Construction Industry Federation and the main agencies engaged in PPP. The principal features of the framework included the recognition of the critical role of social partnership and stakeholder consultation. Further discussions took place on employee and employee representative consultative arrangements culminating in the publication of Guidelines for State Authorities entitled "Stakeholder Consultation for Employees and their Representatives" in early 2005 (ICTU, 2005). These documents gave clear recognition of the critical role of social partnership and stakeholder consultation in underpinning the success of PPPs (ICTU, 2005). This process was supported by the UNECE as enabling the PPP programme in Ireland to be implemented successfully (UNECE, 2008) and also by IBEC which stated "greater buy-in is needed from all stakeholders" (IBEC, 2011, p.3).

The pilot study outlined in chapter 4 found that when PPPs were first introduced in Ireland, it was the intention that stakeholders would be consulted on them, and this appears to have happened with unions in early PPP projects such as in water and wastewater PPPs (Sheppard and Beck, 2016).

Initially, the trade unions were in favour of PPP. The Department of Finance central guideline on PPP consultation between stakeholders (2005) was interpreted by the trade unions as allowing for detailed consultations on the Procurement Assessment Report (PAR) which considers different procurement alternatives in terms of their economic, engineering and organisational aspects[16]. In the case of a replacement wastewater treatment plant, five round-table meetings took place where stakeholders raised questions and made changes to the PAR, prior to submission to the Department of the Environment in November 2007 (Reeves, 2013a).

However, in the case of another water and wastewater PAR submitted in mid-2006, consultation was less cooperative and failed to facilitate agreement. Key issues raised by trade unions included concerns about the data underpinning of cost estimates; the extent to which value for money estimates depended on risk transfer; and omissions such as the cost of providing for redeployment of existing labour. A consultation process followed which ended in a round-table discussion at which the local authority communicated its final decision to adopt the PPP model of procurement (Reeves, 2013a, p.384).

[16] Public Private Partnership – Stakeholder Consultation for Employees and their Representatives, January 2005.

In the case of a mixed tenure housing and urban regeneration PPP proposed as a design, build and finance project, a plan unveiled by Dublin City Council in summer 2004, there was no participation or input from residents or community organisations and the plan was rejected. It was followed by a period of negotiation in late 2004. The council initially resisted having community representatives on the bid assessment panel but relented after a year. The consequences of the economic crash and the decline in the property market resulted in this PPP project collapsing in 2008 (Reeves, 2013a).

The literature gives importance to the categorisation of stakeholders, and in the extended study, interviewees identified different stakeholder groups. Jooste et al. (2009, p.2) use an expanded definition of stakeholders, given by El-Gohary et al. (2006) as "individuals or organizations that are either affected by or affect the development of the project". Jooste et al. (2009) provide a topography of stakeholder groups and categorise them into three broad groups: the public sector, the private sector and the civic sector. They describe this as not being a completely novel approach and cite a number of streams of literature which categorise stakeholders in this manner. Jooste et al. (2009) suggest that for purposes of simplification it can be said that the "public sector" includes all governmental organisations; the "private sector" as the market of private companies or organisations that are directly involved in PPP projects; and the "civic sector" as those who have local interests at heart such as the users of the assets, local residents, taxpayers and civic organisations.

In the extended study, interviewees identified stakeholder groups involved in PPP sectors. For the purposes of stakeholder-focused data analysis, these were categorised in line with Jooste et al. (2009) as outlined in Table 5.4. The trade union stakeholder group proved difficult to categorise as in two cases the trade unions in question represented public servants. However these interviewees were minor contributors to the research as very little of their interviews were used in the data analysis. In the case of the most important trader union contributor, P4, this contributor is a member of a trade union which describes itself as a civic society organisation. Hence the trade unions are categorised under the civic sector. The main focus of the research was on the public and private sectors with a limited focus on the civic sector.

Table 5.4: Stakeholders by PPP sector		
Education PPPs	**Justice PPPs**	**Primary Care PPPs**
Public sector stakeholders		
Grangegorman Development Agency	Judges	Clinical staff
Teachers	Office of Public Works (OPW)	
School principals		
Private sector stakeholders		
Bidders: construction companies, banks and equity investors and their advisers	Bidders: construction companies, banks and equity investors and their advisers	Bidders: construction companies, banks and equity investors and their advisers
Civic sector stakeholders		
Community groups		Community groups
Trade unions		

It appears that the understanding of stakeholder consultation has become fragmented since PPPs were first introduced. During the extended study only four interviewees explicitly discussed the taxpayer as a stakeholder in PPP. Two of these interviewees were from the public sector – one an interviewee who formerly worked with the NDFA and one from the Courts Service with less than five years' experience of PPP. One private sector interviewee and one former private sector interviewee now working in the public sector also discussed the taxpayer as a stakeholder in PPP. A further search was carried out to see if variations of "taxpayer" were referred to in interviews. The terms "members of the public" and "the general public", however, were generally not discussed by interviewees.

This is in contrast to the early days of PPP when there was an emphasis on stakeholder consultation, as discussed by a representative from one of the Trade Unions:

> it wasn't kind of a blanket agreement that we agreed with Public Private Partnerships but we accepted … that there was a value or a role for them in a particular context providing that the consultation process with local stakeholders happened (P4, 2016)

This interviewee went on to speak about consultation with unions regarding PPP in early projects:

> we … used our participation within the social partnership system in order … to make sure that we got hold of the information and were consulted at an early stage on a project by project basis as opposed to being told afterwards (P4, 2016)

This interviewee also spoke about the importance of consultation and value for money for the taxpayer:

> consultation … was very important to us…from a wider perspective we also have an interest in ensuring …that taxpayers' money is well spent and you are getting value for money from the project (P4, 2016)

The more recent lack of importance given to the taxpayer and the emphasis and importance given to the private sector was illustrated by a comment made by a former private sector interviewee now working in the public sector. When asked about stakeholders in PPP, this interviewee said: "the market is a key" (P14, 2016).

The NDFA also talks about stakeholders in terms of the private sector. Mr Brian Murphy, then Director of the NDFA, spoke of working closely with stakeholders to ensure a competitive PPP environment that generates value for money for the taxpayer (Dáil Éireann, 2012b). He stated that the NDFA was commencing market engagement with stakeholders but went on to identify only private sector stakeholders. There was no mention of engagement with the public, taxpayers or unions. This raises questions about whom the NDFA is serving – is it legitimising PPP for the taxpayer or is it serving the interests of the private sector? *5.3.1 Lead institutional support* noted that the NDFA primarily is a promoter of PPP and a political lobbyist for PPPs and this has serious implications as the agency carries out the value for money testing on PPP projects. In *5.3.2.1 Transparency* the NDFA was identified as having a lack of transparency. The lack of transparency surrounding PPP decision-making would suggest that monitoring PPP activity on behalf of the taxpayer is not a priority.

Overall there are indications that stakeholder consultation in PPP has been patchy. This is illustrated by the following sectoral analysis of the extended study which is in no particular order. This analysis indicates that stakeholder consultation differs with PPP sector, there is a pecking order of stakeholders within sectors and stakeholder consultation differs across stages of the PPP cycle. This is illustrated in Table 5.5 and discussed in the subsequent analysis.

Table 5.5: Stakeholder consultation at different stages of the PPP cycle			
Type of stakeholder			
	Weak	**Mixed**	**Strong**
Design and construction stages	**Education (Teaching staff)** **Education (Trade unions)**	**Education (School Principals)**	**Education (Local communities)** **Justice (Judges)** **Primary Care (Clinicians and Local communities)**
Operational stages		**Convention Centre (Local communities)**	**Education (School Principals)**

Education PPPs

5.3.4 Project portfolio, which will be analysed later in this chapter, outlines the education PPPs conducted since the Pilot Schools Bundle in 2001. Education projects seem to have shown a mixed pattern in terms of stakeholder consultation, with involvement varying across the type of stakeholder and the phase that the PPP is at. The following analysis indicates that consultation at the design and construction stage is weak with teaching staff, mixed with school principals and strong with local communities. Lastly, consultation at the operational stage is strong with school principals. Also, while there has been a lack of consultation with unions, there also appears to be an indifference to PPP on the part of the teachers' unions, that is, the Association of Secondary School Teachers of Ireland (ASTI) and the Teachers Union of Ireland (TUI) .

During the extended study conducted in 2016, an interviewee from the ASTI spoke about the lack of consultation with the teachers' unions:

> There was no consultation with teachers unions around … the commencement of building new schools under the PPP. There obviously would have been discussion with the patrons of these schools … when it comes to buildings really the unions aren't at the table … There really wasn't a brouhaha about PPPs in the education sector…It was never an issue subjected to any critical discussion (P17, 2016)

This interviewee recalled the introduction of PPP and the unions' reaction to it:

> from my recollection apart from a few dissident voices there wasn't a critical opposition to it because it was seen as a way of getting things done. It was seen as a way of actually mobilising resources to build up the infrastructure (P17, 2016)

This indifference to PPP appears to be shared by the TUI, with an interviewee from that organisation saying when asked about their policy on PPP that it was not that they did not have a policy on PPP, it was just that he could not find one (P20, 2016).

A lack of consultation led to initial concerns among school principals, as discussed by an interviewee from the ASTI:

> at the beginning there was … concern about that and a clash of roles and I remember … one principal in particular in a PPP school…they were concerned about roles, role conflict and their legal standing (P17, 2016)

Since then limited consultation with education staff appears to have remained the rule. As a public sector interviewee working on a stage 3 Education project said of meeting staff who will be working in the facility:

> it's very limited the engagement with them, we met them a couple of times (P5, 2016)

Where there is consultation with education staff it differs across different stages of a PPP and across the occupational hierarchy. In this context education staff refers to teaching staff and school principals. For example, in the early days of PPP there was little involvement of school principals in the construction stage. This was explained by a private sector interviewee involved in PPP since the pilot project by the fact that PPP procurement in that sector had not bedded down:

> it was unlike England...[large builder] never allowed the head or anybody on to site until it was finished (P19, 2016)

The reason for this was explained by a private sector interviewee involved in a consortium, who commented on the involvement of school principals in schools bundle 1:

> the authority kept the schools at arm's length from the contractor … they didn't even tell the schools, it looked like, they told them the day they moved in. There were good reasons for that because if you give somebody a design they'll come back with a hundred questions (P24, 2016)

However, the same interviewee noted that consultation with school principals seems to have changed in later projects:

> That did evolve over time … we would rarely have a teacher coming into our sites unannounced, they would have to go through the NDFA…we would have three monthly meetings with the principal of the school telling the principal what was going on and giving them a tour of the school (P24, 2016)

Consultation at the operational stage is stronger and the private sector recognises the importance of engaging with education staff when it comes to operations and maintenance conducted through the Operations & Maintenance Company (O&M Co.). However, this is also hierarchical as even though the private sector interviewees emphasise the importance of maintaining a relationship with the public sector, the relationship is with school principals and not teaching staff. In the context of legitimising PPPs, this could be interpreted as the private sector trying to keep school principals on their side by giving them a role in PPP regardless of how meaningful it actually is. This was exemplified by a private sector interviewee working on Education projects who spoke of interaction with school principals:

> the interface with the principals is very interesting. They are the people who are putting stuff on the help desk all the time … they do have quite a bit of control but they don't manage the contract in any meaningful way ... but … how we operate on each of the schools will forge how easy or how difficult our life is going to be for 25 years… you've got to have a relationship with the key stakeholders (P12, 2016)

It is, however, the O&M Co. that interfaces with the NDFA and not school principals, and this suggests that school principal consultation is an afterthought and unlikely to be meaningful. The O&M Co. attends meetings with the NDFA, as explained by a private sector interviewee involved in Education projects and a successful bidder on the Grangegorman project:

> we … attend meetings with the NDFA on a monthly basis. Sometimes in other PFIs … in the UK I understand from my colleagues that O&M Co. doesn't always get a seat at the table, that sometimes it's PPP Co. [who is] the SPV … that does all of the interface with the authority and then … delivers back down… to O&M Co.(P12, 2016)

PPP learning among school principals is also taking place which in turn helps increase the legitimacy of PPP. For example, the extended study interviews conducted in 2016 suggest that school principals from different schools help each other out when it comes to interacting with the private sector partner. School principals involved in early schools bundles and those who are experienced in dealing with the help desk advise those involved in later schools

bundles. This also strengthens PPP capacity outlined in 6.*2.2 Policy learning*, which will be analysed in chapter 6, as learning from prior school projects is shared between school principals.

The hierarchical nature of consultation with stakeholders, however, does not preclude engagement with local communities. While there is no consultation with teaching staff and limited consultation with school principals, there is consultation with communities affected by the building of schools through PPP, particularly at the construction phase. For example, a private sector interviewee involved in a consortium spoke of stakeholder consultation, as follows:

> We tell the community about the schools … get people up to speed and we do these two or three times during the project… we do a leaflet drop every three months to the local community, explain the project … because there is a lack of knowledge … but it's up to us the … the people who are building these things and operating them to educate the local stakeholders and we do that very well … we find out the open night for the schools … and we will have a stand (P24, 2016)

Despite the limited consultation and its hierarchical nature, teachers and principals appear to be satisfied with PPP. This was emphasised by an interviewee from the ASTI who spoke of PPPs meeting the needs of those working in Education:

> The principal is happy, the teachers are happy, they have far better services, their state of the art buildings, they are well maintained and so we have never had a criticism… Teachers don't have to do as much administrative duties … like basically housekeeping duties because there are ancillary staff to do it and very significantly the school principal doesn't have to be theoretically within calling distance of the school in case something happens because if the boiler breaks down you have a caretaker … from those points of view teachers seem to be very happy (P17, 2016)

The objective of the original schools pilot project was to "relieve school principals of the responsibility for managing school buildings, allowing them instead to concentrate on their core educational and school management functions" and there is nothing to suggest that this has not happened (Comptroller and Auditor General, 2004, p.16).

Consultation with local communities can be contrasted with that of the Convention Centre, where consultation was mixed. A private sector interviewee working on the project

made the point that there was not a lot of involvement with the community but they do employ local people:

> there isn't that much involvement with a sort of community … we have employment policies where we have quite a lot of hosts who … are the … people you see when you come in for an event …we have employment policies around employing local people view (P10, 2016)

This suggests that there is a concerted effort to engage with local communities in educational PPPs, an issue perhaps more controversial and closer to local communities' hearts than the Convention Centre PPP.

It appears that consultation with stakeholders is far from that laid out in the Department of Finance central guideline on PPP consultation between stakeholders (2005). Consultation with teaching staff and trade unions is weak at the construction phase. Consultation with school principals at the construction phase is mixed. However, consultation is strong with local communities at the construction phase. Consultation with school principals is stronger at the operational phase.

Justice PPPs

5.3.4 Project portfolio, which is analysed later in this chapter, includes Justice PPPs, of which there have been the Criminal Courts of Justice Building and a stage 3 Courts bundle. A review of the Criminal Courts of Justice (CCJ) project found that there is evidence that the stakeholders were all adequately engaged in the decision-making process (Mazars, 2012). Stakeholder groups identified in the review were: the Judiciary; court registrars, clerks and other administrative staff; service personnel; victim support; the Bar Council; the Law Society; An Garda Síochána; the Prison Service; and the Director of Public Prosecutions.

However, the extended study found that, while there is engagement with stakeholders in Justice projects, it is complex as there are multiple users. As a public sector interviewee who has worked on stage 2 and 3 Justice projects explained:

> the Judges' staff, the internal ones … defendants … solicitors, barristers, legal aid, probation service, the prison service, Gardai, some of the other support groups, the victims groups … you get about ten or twelve major stakeholders, a lot of whom are on the opposite sides (P7, 2016)

The public sector interviewee involved in Justice projects was adamant that PPP built facilities are better for stakeholders:

> the experience in the CCJ universally … would be yes, we're getting … better facilities than we've ever had before, the service level is better than ever before… there's a comfort among our stakeholders as to what can be delivered by PPP and when they see a big swathe of buildings being delivered they are all happy (P7, 2016)

Another private sector interviewee who worked on Justice projects also confirmed this, saying:

> I think it's … of huge benefit to… the community that it's putting stuff into (P11, 2016)

A public sector interviewee who has worked on stage 2 and 3 Justice projects confirmed that consultation with stakeholders does take place:

> you may at a stakeholders meeting have one or two stakeholders who, say oh I read about them PFIs in England and aren't they terrible? (P7, 2016)

However, again there is a hierarchy in terms of stakeholders as several interviewees spoke about judges and were concerned that their needs be met, but did not mention any other stakeholder groups. For example, a public sector interviewee who worked on the CCJ explained that judges made a trip to the Manchester courts to see how a PFI worked (P7, 2016). Another public sector interviewee spoke of judges' involvement in the design process (P15, 2016). There was no mention of meeting the needs of other court staff and other users. This mirrors other PPP sectors such as education, where consultation with school teaching staff was weak, consultation with school principals was mixed and consultation with local communities was strong at the design and construction stages. Clearly there is a hierarchy of stakeholder consultation in PPP.

The OPW appeared to feel threatened by PPP. A public sector interviewee involved in Justice PPPs made the point that the OPW, a procuring authority, felt unease about PPP:

> the OPW…don't like PPPs … they see it as … threatening some of their role in … the State's estate…the OPW, on an individual basis the people who work in the PPP area with us would be quite happy with it and like doing PPPs but when you got up to say commissioner level it's not … as strong (P7, 2016)

This also demonstrates a lack of commitment at senior public servant level. However, the researcher recognises that this interviewee was perhaps unique in terms of documenting the view of an individual who is not a strong supporter of PPP.

Overall in Justice PPPs there is again a hierarchy of stakeholders with particular importance given to ensuring that judges are satisfied with the design stage of PPPs but no mention of meeting the needs of other court staff and court users.

Primary Care PPPs

Section *5.3.4 Project portfolio* outlines the extent of health PPPs. During the financial crisis, a stage 2 PPP project, referred to as the National Plan for Radiation Oncology, was postponed. The first stage of the stimulus programme announced in 2012 included a plan to build Primary Care units though PPP, and a third phase announced in 2015 includes a plan to build a National Forensic Mental Service, also though PPP.

In the UK research has found that the evolution of National Health Services (NHS) Primary Care Trusts into NHS Local Improvement Finance Trusts (LIFT), a form of private finance initiative (PFI), has resulted in a move towards a private sector health delivery with "private sector personnel with generic business experience but often little specialist health knowledge" (Aldred, 2008, p.14). Research has found that the private sector has a stronger hand as it can walk away from the partnership and only lose its original investment while the public sector is the weaker partner as it cannot afford to lose health facilities (Aldred, 2008). The research also found that there was little engagement with community organisations, which led to legitimacy problems and a backlash from "anti-corporate activities", which damaged the legitimacy of the LIFT policy as it was seen to "threaten small providers" with construction companies being used instead of local builders (Aldred, 2008, p.18). Beck et al. (2009) also found that for smaller builders LIFT projects were risky, and overly bureaucratic, resulting in the use of a least mid-size construction companies over smaller builders.

The extended study presented here found that engagement with stakeholders is strong in stage 3 Primary Care projects at the design and procurement stage. The extended study did not cover the operational stage as Primary Care projects were still under construction at this time. Again it is clear that some stakeholders have more power than others and there is a fine balance to be struck between stakeholders and their demands. For example, a private sector interviewee from a construction company that failed on the Primary Care bid made the point that it could be difficult to decide between what is possible and what it is not possible:

> I suspect there's that constant tussle between the end user wanting … to know what it looks like or [that] it doesn't cost much to run (P16, 2016)

However, interaction between the Health Service Executive (HSE) and local communities where Primary Care projects are being built seems considerable, as discussed by the public sector interviewee involved in the Primary Care projects:

> at every stage of the process … we go … right down to the level of the clinician to review … is this going to meet their requirements? … And … trying to understand where the clinical service is going … and I think … that's probably more unique to healthcare than it potentially is to other sorts of areas … because it has … a fundamental …impact on the service that you deliver to patients (P22, 2016)

It is notable that this interviewee is concerned about the clinician's requirements being met. A private sector interviewee working on Primary Care projects told an anecdote of a clinician who wanted a sink in a treatment room to be put on the opposite side of the wall to the way all other treatment rooms were set up and this was allowed (P18, 2016).

As a result of clinicians' consultation being strong, a lot of consideration is given to design in Primary Care projects. A private sector interviewee who works for a successful bidder on Primary Care projects explained that they cooperated with a UK provider to assist them in the design and layout of rooms. This was done with the end user in mind, namely, patients:

> We teamed up with … a big provider of primary care in the UK, PRIME, and they knew how these buildings need to operate and how they are best laid out for patients and the health provision (P18, 2016)

Consultation with local communities is also strong. Interaction takes place with local communities affected by the opening of a Primary Care facility, with some communities being more interested than others. This was explained by the public sector interviewee involved in the Primary Care projects:

> we recognise that there's a huge value of bringing people in on the inside at the early stages because even if people are not happy at least if you've had the consultation process it's a little bit easier to manage than if you don't at all…in certain areas people aren't remotely interested, in other areas there would be local community groups and our design team would go out and do presentations to the local community…give them the chance to throw their two cents worth in…our local site contractors go around all the schools…issue community newsletters for each site… on the acute hospitals sites or on a project that's going to be in the middle of a residential community or close to we would always offer the opportunity of local residents to come in (P22, 2016)

Consideration is given to employment in the local communities, as the public sector interviewee involved in the Primary Care projects discussed:

> there's a requirement to take on a certain number of apprentices, trainees (P22, 2016)

This is likely to strengthen support of the local community.

Summary 5.3.3 Stakeholder consent

The findings of the pilot study outlined in chapter 4 were that there appears to have been buy-in to PPP from stakeholder groups but this is less so in recent years (Sheppard and Beck, 2016).

The study found that stakeholder engagement differs across PPP sectors, the type of stakeholder and different stages of the PPP process. There is more stakeholder engagement in Justice and Primary Care projects than in Education projects.

Within stakeholder groups consultation is stronger with clinicians, judges and local communities affected by schools and Primary Care projects. Consultation is mixed with school principals and weak with teaching staff and trade unions. When analysed by the stage of the PPP, consultation is stronger with school principals at the operational stage than at the design and construction stages. Also consultation is stronger with local communities affected by Education and Primary Care projects at the design and operational stages than those affected by the Convention Centre at the operational stage.

This suggests that more importance is put on legitimising PPP for local communities affected more directly by PPPs such as Education and Primary Care facilities, than on a one-off project such as the Convention Centre which has less impact on the local community.

It also suggests that more importance is put on legitimising PPP for those stakeholder groups that are more influential such as clinicians and judges compared to schoolteachers and trade unions. Consultation with school principals appears to be mixed at the design and construction stages but strengthens at the operational stage. However, the real power of decision-making at the operational stage lies with the O&M company and the NDFA and school principals have very little influence. Where school principals seek influence, at the design and construction stage, their involvement seems to be limited.

It is also important that to highlight the lack of discussion by interviewees of another major stakeholder in PPP, namely, the taxpayer. There is a correlation here between the lack of importance given to the taxpayer and the lack of transparency, highlighted in *5.3.2.1 Transparency* which discusses the publication of PPP contract information essential for the taxpayer to make a value for money assessment. This indicates that the taxpayer is of limited relevance to the PPP stakeholder pecking order. This deviates from the recommendations of Delhi and Mahalingam (2012, p.1485) who suggest that all the relevant stakeholders be "convinced and well-informed" of PPP. Evidently, legitimising taxpayer consent in PPP is not considered important, which may be attributed to the fact that taxpayers are not an important feature of Irish politics.

This fragmented approach also runs counter to the recommendations by Jooste et al. (2009) that stakeholder consultation should be imperative in the PPP process and will improve accountability of PPPs, as well as the views of Reeves (2013), who contends that it will lead to a transparent and more successful PPP process. Overall, stakeholder consent and hence its possible contribution to the legitimacy of PPP is mixed.

5.3.4 Project portfolio

The literature suggests that it is essential that there is an active PPP project portfolio and Matos-Castaño (2011, p.24) emphasises that this will "generate knowledge and improve capacity" in both the public and private sectors. Increasing the number of projects and keeping a reasonable and active project portfolio is essential for the legitimacy of PPP. This requires political support which in turn provides confidence to the private sector (Matos-Castaño, 2011).

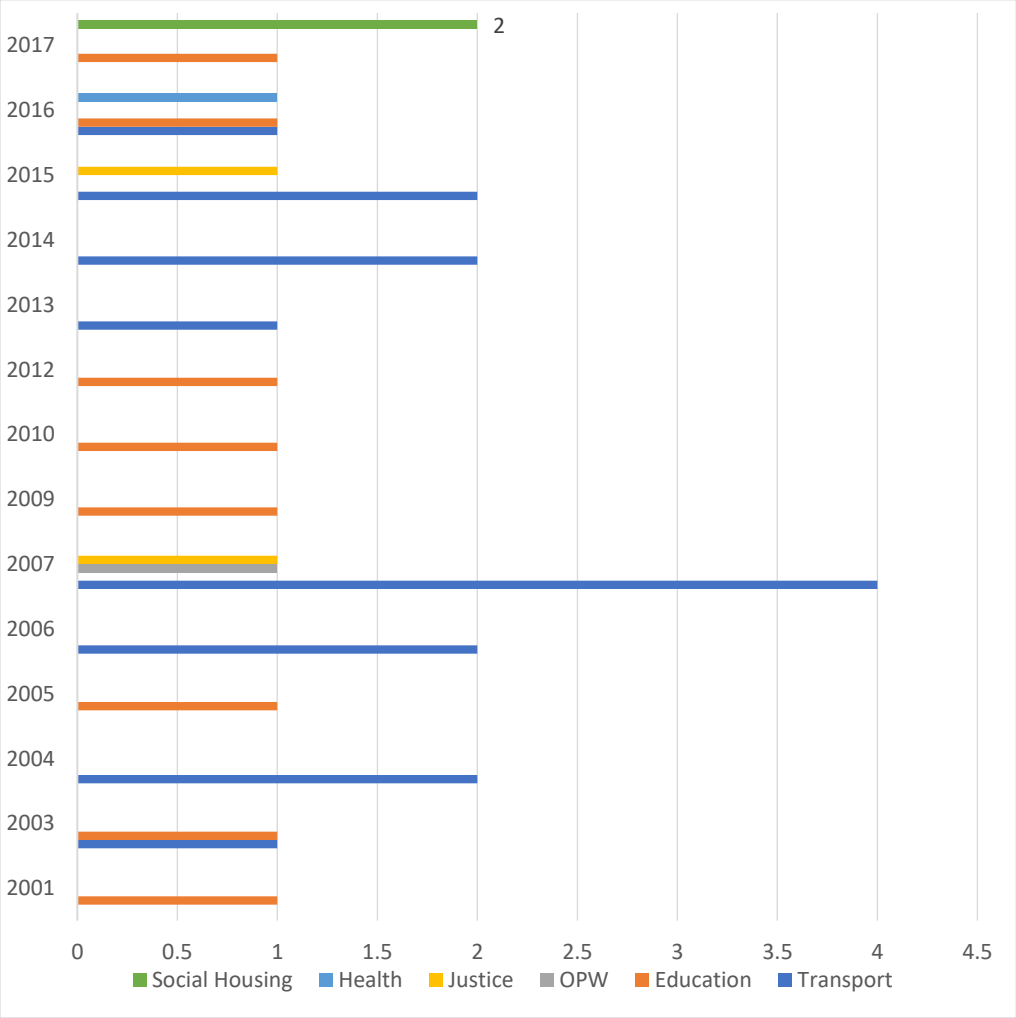
Prior to the financial crisis, Ireland had a substantial active portfolio of PPP projects and was therefore described as a "leading practioner" in transport, education, housing/urban regeneration and water/wastewater (Northoff, 2008, p.7). The extended study carried out in 2016 found that during the financial crisis Ireland suffered reputational damage in the PPP

market from cancelling projects, and despite a pipeline of projects announced in 2012, there has been limited activity in the Irish market and it is fragmented.

It should be noted that this analysis ignores water and wastewater PPPs, as these are exchequer financed and have now moved under the control of Irish Water. It should also be noted that the Social Housing bundles contracted in 2017 are outside of this research.

Figure 5.5 depicts the number of PPP projects signed, awarded or at financial close since the first project was approved in 1999 and Appendix M also provides a detailed list of these projects:

Figure 5.5: Number of PPP projects signed, awarded or at financial close



Source: www.ndfa.ie/project_sectors and Comptroller and Auditor General, Annual Report 2008 and 2011.

Prior to the financial crisis, there was a steady flow of PPP projects in Roads, Education and two major projects in the forms of the Convention Centre and the Criminal Courts of Justice (CCJ). In fact, Ireland was considered to be a rapid follower of PPP

(Deloitte, 2006). This culminated in the awarding of further Transport projects, the Convention Centre and the CCJ building in 2007.

The extended study carried out in 2016 indicated that there was considerable interest from the market for the CCJ. An interviewee who formerly worked with the NDFA said:

> There were four consortia that bid for that … courts project so … there is a market appetite for it … there was … four bidders for that project and that would seem to indicate … that there is market interest but the market interest is … predominantly dictated by the scale of the project (P4, 2016)

However, the financial crisis beginning in 2008 brought about the cancellation of planned projects, some at an advanced stage, which resulted in some bidders losing substantial sums of money (see Appendix N). There is acknowledgement within the public sector in Ireland that the cancellation of these planned projects adversely affected the private sector, a factor which has damaged the legitimacy of PPP. As one public sector interviewee working on Education projects said, private sector firms:

> had the projects cancelled very late in the day so at this stage they've lost … many millions of euro through projects being cancelled … but I can't blame them for being a bit cautious (P5, 2016)

This interviewee made an interesting comment when reflecting that these firms are still around and interested in current projects:

> you have to say ultimately they're in the game so they must view that there's money to be made and … the question for the State is, if they still think it's worth such an expensive bid that the prize is a very rich one, which questions … what are we paying for? (P5, 2016)

However, a PPP consultant who has worked on stage 1 and 2 PPP projects in Ireland beginning in 2006 said that the cancellation of these projects affected Ireland's reputation in the PPP market and there is a lack of state credibility due to cancelled projects and a lack of interest by the markets. This interviewee went on to say that interest may come back but at a higher price due to the private sector having been burnt, and there will also be a lack of private sector capacity such as builders (P6, 2016).

This was also confirmed by a public sector interviewee working on Environment projects:

> I think we suffered …a credibility loss during the recession when projects like the Metro collapsed … companies put a lot of money into the Metro projects. I was part of one of the consortia and when things like that happen that's damaging… people would be slow again …to come back in…until they are sure that there's political commitment to it (P9, 2016)

A public sector interviewee involved in stage 3 Justice projects also commented on the effect of cancelled projects in relation to one private sector company that had bid:

> it hadn't been announced but they reckon they'd won the Concert Hall and they put millions into that and I know they were very annoyed … [when] Brian Hayes announced the current bundle they actually stood up at the meeting and lambasted the government (P7, 2016)

A private sector interviewee referred to above confirmed:

> we've had a few schemes cancelled on us where we've spent, in a consortium … probably half a million quid…in…2008/9/10 when the government had to cancel projects the NDFA said, very sorry, we've been engaged with you around this project but we have to cancel it now (P11, 2016)

Another private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to be involved in Social Housing PPPs spoke of their involvement in the cancelled PPPs and the effect it had on the private sector:

> private sector had spent millions on bids, like they never got any money back (P13, 2016)

This interviewee warned that Ireland:

> will only get away with that once or twice … when all the PPP projects were pulled, that damaged us internationally and it burned a lot of potential bidders (P13, 2016)

As a result of cancelled projects, there was very little PPP activity during the financial crisis from 2008 to 2012. To stimulate the market and to show that Ireland was open for business again, a pipeline of projects was announced in 2012. These included Roads, Schools, new and refurbished Courthouses, Primary Care centres and the Grangegorman third level education facility. A second phase of the stimulus programme was announced in 2014 which included two bundles of Social Housing. In 2015, a third phase in the Infrastructure and Capital Investment Plan 2016 – 2021 (Department of Public Expenditure and Reform, 2015) included the projects listed in Table 5.6:

Table 5.6: Third phase of the Infrastructure and Capital Investment Plan 2016 - 2021		
Justice	**Health**	**Education**
New Garda Stations	National Forensic Mental Health Service in Portrane	Third Level Education facilities
Family Law and Children's Court Complex		

As discussed in *5.3.1 Lead Institutional Support*, the NDFA is a market driver and is instrumental in keeping the market informed and reassuring the market about the continuation of the PPP programme, a factor which contributes to the legitimacy of PPP. Despite the plans for more PPPs, there is criticism that there is little activity in the Irish market. A former private sector interviewee working in the public sector said:

> [the] current programme is being good … the roads and schools are being good … there's a couple of schools hanging around compared to having four and five school bundles, four and five road programmes. That's what the market really needs to get … excited (P14, 2016)

This was reiterated by a private sector interviewee working on Primary Care projects, who said:

> the one thing that will come out eventually this year is one project which is definitely not a pipeline. Up to now it was very good because they had schools, they had the primary care, the Garda, Grangegorman (P18, 2016)

A former private sector interviewee working in the public sector also spoke of the fragmented nature of the PPP project pipeline:

> there are some projects but they're all a little bit bitty (P14, 2016)

However, the public sector interviewee who has worked on stage 2 and 3 Justice projects spoke of market interest in the Courts bundle:

> we got good interest … for the bundle we'd five bidders and they were all credible bidders (P7, 2016)

There is frustration in the private sector regarding the Social Housing bundles. Despite being included in the second phase of the stimulus programme in 2014, at the time of the interviews there had been no announcement of when these bundles would go to the market. A private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to be involved in Social Housing PPPs said:

> social housing…has not been followed up on…yes we've got a 2.25 billion … two years ago … we've nothing behind it… at the moment we're waiting for the next PPP announcement in terms of the next slew of projects that are coming out, and if you are a bidder and you're spending half a million to a million euro for a bid and you're one of four and you don't get it, that's normal practice. You want to be in for a shout in the next one you'll say,… they're going to be busy on those so I'm strategically set myself up to get the next one. If there's none there, you don't get a chance to recoup and then if it … waits five years … and it's a whole different range of projects you … go, well I've lost the team I had, the consultants I had have lost interest in me and they've gone on to do different things (P13, 2016)

This interviewee suggested that:

> what you need to do is have the schools bundles, third level bundles, the primary cares … just coming out on a conveyor belt. That's the bit we're missing … we'll rile up the whole market by saying we're doing this massive social housing programme, which we don't do … [because] announcements … aren't followed up (P13, 2016)

A former private sector interviewee working in the public sector predicted when the Social Housing Bundles were to be announced:

> I'm hoping to see launched in about January formally these PPP social housing projects … whet people's appetites (P14, 2016)

A private sector interviewee involved in a consortium also commented on the Social Housing Bundles:

> We are waiting to hear … we believe there's a … housing due probably in March, April, we're all waiting to see …what's happening with the overall stimulus package (P24, 2016)

There also appears to be confusion about the new Garda station projects announced in the third phase of the stimulus programme in 2015. A private sector interviewee involved in PPP since the pilot project suggested that the Garda stations were not going to be procured through PPP:

> there were originally going to be three Garda stations done. They were pulled but they may be bringing a couple of those back (P19, 2016)

The reason for this was explained by a public sector interviewee who is currently working on Justice projects. This interviewee explained this as follows:

> There were three big Garda Stations to go by PPP. And when the Minister … found out how long they were taking … he asked me, could they be done quicker … I said, yes we can do them quicker…the only reason those Garda stations came back is when they saw they weren't going to be ready for the election … I was called down for a meeting and they said, we have to have them … I said … I can do them traditionally you have it next week I was told you have the money off you go do it. The NDFA were very annoyed, they thought I had lobbied to take the project back (P15, 2016)

A public sector interviewee who has worked on stage 2 and 3 Justice projects confirmed that some Garda stations are to be built through traditional procurement and some will still be through PPP, and suggested that they should not have been announced as possible PPP projects:

> so those Garda stations, well they were converted through traditional builds … I think that reflects sort of more political lack of knowledge of PPP announcing stuff without knowing whether you have a suitable project or no (P7, 2016)

The situation regarding the Garda stations was confirmed by the senior public sector interviewee involved in PPP decision-making who said:

> that's in Phase 3… that's still in the plan … it remains to be firmed up because the final decision on exactly the composition of it is a matter for the Minister for Justice…but the latest indication we have is that it's the Hammond Lane complex and a number of Garda HQs (P8, 2016)

This confusion echoes concerns raised earlier around the transparency in PPP decision-making (see *5.3.2.1 Transparency*). There is a lack of clarity among public and private sector interviewees about the Garda stations and whether it is Department or the NDFA making the decision. Again, as mentioned in *5.3.1 Lead Institutional Support*, there is confusion regarding the role of the NDFA in decision-making.

Summary 5.3.4 Project portfolio

Prior to the financial crisis there was a steady flow of PPP projects in Ireland. However, the financial crisis brought about the cancellation of planned projects which resulted in some bidders losing substantial sums of money. There was very little PPP activity from 2008 to 2012. A pipeline of projects was announced in 2012, a second phase in 2014 and a third phase in the Infrastructure and Capital Investment Plan 2016 – 2021 (Department of Public Expenditure and Reform, 2015). As discussed in *5.3.1 Lead Institutional Support*,

the NDFA is a market driver and is instrumental in keeping the market informed and reassuring the market about the continuation of the PPP programme, a factor which contributes to the legitimacy of PPP. Despite these announcements, there is criticism in the private sector that there is little activity in the Irish market and that the PPP pipeline is fragmented. There also appears to be confusion about the launch of the Social Housing bundles and new Garda stations. This is related to the issue as to whether the procuring Department or the NDFA are making the decision. This echoes concerns raised earlier around the transparency in PPP decision-making (see *5.3.2.1 Transparency*) and also supports the suggestion that the role of the NDFA in decision-making is unclear (see *5.3.1 Lead Institutional Support*).

Having a strong portfolio of projects across different sectors with a clear pipeline keeps the market engaged, and a strong market contributes to the legitimacy of PPP. Matos-Castaño (2011) contends that an active PPP project portfolio will generate knowledge and improve the capacity of the public and private sectors. However, it appears that despite the public sector's assertion of a pipeline of projects, the private sector considers this to be patchy, and in this respect it is weakening the legitimacy of PPP.

Conclusion of Theme 1 Legitimacy

The literature on institutional theory was examined in chapter 3 and in the context of PPP it was found that more sustainable PPPs were the ones where the government understood the complexity of PPP and where institutional capacity was built. Institutional theory is used in this research to examine the legitimacy, capacity and trust associated with PPP in order to gauge whether institutional capacity has been built around Irish PPPs. This will in turn ensure the sustainability of this policy.

This analysis is in line with a similar framework proposed by Matos-Castaño et al. (2012) and Jooste et al. (2009). The data collected during the study was analysed with a focus on theory and themes on the three areas of: legitimacy, capacity and trust. Theme 1 examines the legitimacy of PPP under *5.3.1 Lead institutional support, 5.3.2 Political support, 5.3.3 Stakeholder consent* and *5.3.4 Project portfolio*. Each of these sections examines the strength of the aspects contribution to building institutional capacity.

Theme 1 Legitimacy was divided into sub-themes during the data analysis. In *5.3.1 Lead Institutional Support* it was found that the role and function of the Lead Institutional Support, that is the NDFA, were more complex than suggested by the literature. Firstly, the research found that some of the roles of the NDFA as Lead Institutional Support have evolved

beyond that described in the literature. For example, it was found that the role of disseminator of knowledge, market consultant and project driver has evolved to the role of market driver and the role of leader has diminished to that of supporter. The research also identifies a new role of the Lead Institutional Support, that of a bureaucracy.

Secondly, the NDFA exhibited a strong role as adviser and expert, a role which has a positive effect on the legitimacy of PPP. However, the NDFA's involvement in the roles of decision-maker and policy developer were found to be mixed and its involvement in the role of regulatory body, supporter and market driver were found to be weak. As all roles have a positive effect on the legitimacy of PPP this suggests that overall the NDFA is weak in its contribution to the legitimacy of PPP. The NDFA exhibited a strong role as promoter of policy and as a bureaucratic institution. However, these roles are found to have a negative effect on the legitimacy of PPP. Overall this suggests that the NDFA is weak in its contribution to the legitimacy of PPP which should cause serious concerns for the sustainability of this policy.

5.3.2 Political support was sub-divided during the data analysis. In *5.3.2.1 Transparency* it was found that there is transparency in some areas of PPP and a lack of transparency in others. There is a clear lack of transparency surrounding the decision to go down the PPP route and also surrounding value for money testing. There is also a lack of transparency surrounding the PSB which weakens legitimacy as it results in a difficulty to demonstrate value for money to the taxpayer.

There are mixed results in terms of transparency of the bidding process. There is transparency surrounding the bidding process and interviewees believe the bidding process to be fair to those involved, although only for the bidders involved as there is no transparency for the taxpayer. There is mixed transparency in terms of feedback given to bidders at meetings with the NDFA, and there is transparency in feedback given to unsuccessful bidders in general. There is mixed transparency in terms of feedback given to bidders. This is due to the NDFA's wish to be fair or to be seen to be fair and its fear of litigation by unsuccessful bidders.

There is a lack of transparency surrounding the publication of PPP contract information. Transparency surrounding the publication of PPP data increases the overall transparency, thus promoting increased political support and ultimately increasing legitimacy. If there is a lack of transparency surrounding contract information, this can impede oversight and lead to suspicion and thus weaken legitimacy. In terms of the transparency of post-project

reviews, the only sector to have carried out a post-project review and published it is the Courts Service and to a limited extent the C&AG's value for money review of the Pilot Schools Project.

In *5.3.2.2 Legal and regulatory framework* it was found there were several problematic issues. Policy guidelines were introduced in 2006, but there has been a very segmented approach to updating these. It appears that very little evolution of contract formats taking place, suggesting a weak institutional environment leading to problems with legitimacy. While the involvement of the NDFA in the running of PPP contracts is seen positively, in light of the earlier assertions (see *5.3.1 Lead Institutional Support*) that the NDFA's process-driven approach is inflexible, this involvement does not necessarily lead to a strong legal and regulatory framework. Similarly, the contract formats that are in place are predictable and provide consistency for the private sector, but they have been criticised for being elaborate and convoluted. Overall, results in terms of the legal and regulatory framework are mixed. The involvement of the NDFA in the process and its flexible approach to applying rules along with the fragmented approach to updating guidelines and contracts has the capacity to weaken the legitimacy of PPP.

In *5.3.2.3 Political commitment* it was noted that the PPP programme stalled during the financial crisis as projects were cancelled, but as the PPP programme has resumed post crisis, political commitment to PPP has continued, albeit in a weak form and without a political champion. The study has found that political commitment to PPP is now weakened by the ongoing controversy surrounding the on-off balance sheet debate, very weak political support and limited understanding of PPP. Also noted is a short political cycle which is not suited to the slow nature of PPP delivery, uncertain and confusing political planning and decision-making, and political risks, which add ambiguity to long-term commitment-making. This in turn weakens the potential legitimacy of PPP and seriously questions the long term sustainability of this policy legitimacy of PPP.

In *5.3.3 Stakeholder consent* it was found that stakeholder engagement differs across PPP sectors, with the type of stakeholder and the stages of the PPP process, a concept not identified in the prior literature. There is more stakeholder engagement in Justice and Primary Care projects than in Education projects. This emphasises that more importance is given to legitimacy of stakeholder groups in the sectors of Primary Care and Justice than in Education.

Within stakeholder groups, consultation is stronger with clinicians, judges and local communities affected by schools and Primary Care projects. Consultation is mixed with

school principals and weak with teaching staff and trade unions. When analysed by the stage of the PPP, consultation is stronger with school principals at the operational stage than at the design and construction stages. Also, consultation is stronger with local communities affected by Education and Primary Care projects at the design and operational stages than communities affected by the Convention Centre at the operational stage. This suggests that more importance is put on legitimising PPP for local communities affected more directly by PPP such as Education and Primary Care than those affected by a one-off project such as the Convention Centre.

It also suggests than more importance is put on legitimising PPP for those stakeholder groups that are more influential such as clinicians and judges as compared to schoolteachers and trade unions. Consultation with school principals is mixed at the design and construction stages but strengthens at the operational stage. However, the real power of decision-making at the operational stage lies with the O&M company and the NDFA, and school principals have comparatively little influence. Where school principals seek influence at the design and construction stage, their involvement is mixed.

It is also important to highlight the lack of discussion by interviewees of a major stakeholder in PPP, that is, the taxpayer. There is correlation here between the lack of importance given to the taxpayer and the lack of transparency, highlighted in *5.3.2.1 Transparency* where this was observed in connection with the publication of PPP contract information essential for the taxpayer to make a value for money assessment. This indicates that the taxpayer is very low down the stakeholder pecking order. Evidently legitimising taxpayer consent in PPP is not important. Overall, stakeholder consent and its possible contribution to the legitimacy of PPP are mixed.

In *5.3.4 Project portfolio* it was found that Ireland suffered reputational damage in the PPP market from cancelling projects, and there was very little PPP activity from 2008 to 2012. A pipeline of projects was announced in 2012, a second phase in 2014 and a third phase in the Infrastructure and Capital Investment Plan 2016 – 2021 (Department of Public Expenditure and Reform, 2015). As discussed in *5.3.1 Lead Institutional Support*, the NDFA is a market driver and is instrumental in keeping the market informed as well as reassuring the market about the continuation of the PPP programme, a factor which contributes to the legitimacy of PPP. Despite these announcements, there is criticism in the private sector that there is little activity in the Irish market and that it is fragmented. There appears to be confusion about the launch of the Social Housing bundles and new Garda stations and whether it is the procuring Department or the NDFA making the decision.

Having a strong portfolio of projects across different sectors with a clear pipeline keeps the market engaged, and a strong market contributes to the legitimacy of PPP. However, it appears that despite the public sector's assertion of a pipeline of projects, the private sector considers this to be patchy, and which is likely to weaken the legitimacy of PPP.

In conclusion, the results of the study found that the contribution of *5.3.1 Lead Institutional Support* and *5.3.3 Stakeholder consent* to the legitimacy of PPP is mixed and the contribution of *5.3.2 Political support* and *5.3.4 Project portfolio* to the legitimacy is weak. This raises serious concerns about the sustainability of PPP in Ireland.

Chapter 6 – Theme 2: Capacity and Theme 3: Trust

6.1 Introduction

Chapter 3 examined the literature on institutional theory and this research suggested that PPPs require a new type of institutional capacity (Jooste et al., 2009) and governments should develop the necessary capacity to ensure that projects are brought to fruition successfully (Matos-Castaño et al., 2012). Jooste et al. (2009) state that capacity not only refers to the building of the capacity of government, which includes the public sector, but also the building of the capacity of the private sector. The literature contends that capacity to undertake PPPs will strengthen the ability to structure and govern PPP projects which is necessary for PPP development (Jooste et al., 2009; Matos-Castaño et al., 2012).

There is overlap between *Theme 1 Legitimacy* and *Theme 2 Capacity* as Jooste et al. (2009) and Verhoest et al. (2015) also state that capacity requires the establishment of lead institutional support or a specialised PPP unit. As addressed in *5.3.1 Lead Institutional Support*, a specialised PPP unit can help legitimise PPP. Verhoest et al. (2015) also state that capacity, in the context of PPP, requires systems for learning and knowledge diffusion. As addressed in *5.3.1 Lead Institutional Support*, knowledge diffusion is important for legitimising PPP.

Both *Theme 2 Capacity* and *Theme 3 Trust* are analysed in a similar manner to *Theme 1 Legitimacy* in chapter 5. Section 6.2 begins with the analysis of *Theme 2 Capacity*. This is sub-divided into *6.2.1 Methods to encourage market demand, 6.2.2 Policy learning, 6.2.3 Public sector expertise, 6.2.4 Quality of projects, 6.2.5 Coordination of deal flow and 6.2.6 Performance of PPPs*. Later on in the chapter section 6.3 will analyse *Theme 3 Trust*. This section is sub-divided into *6.3.1 PPP programme accountability, 6.3.2 Fairness of PPP procurement* and *6.3.3 Complaints and arbitration*.

6.2 Theme 2 Capacity

The approach to the analysis of data under *Theme 2 Capacity* is similar to the approach adopted in *Theme 1 Legitimacy* which is outlined in *4.4.1 Data analysis used in this research study*. Appendix H shows how the literature groups the broader themes under the main themes. Appendix I shows the thematic framework which was reflected in Table 5.1 shown earlier and this is now repeated for *Theme 2 Capacity* in Table 6.1. This table shows how the theme *6.2.2 Policy learning* was further analysed and this will be explained in that section. The order of analysis is based on the number of text blocks identified against each

sub-theme in the data analysis. The number of text blocks does not necessarily reflect the importance of the theme.

Table 6.1: Theme 2 Capacity		
Name	**Number of text blocks**	**Number of text blocks**
6.2 Theme 2 Capacity:		3615
6.2.1 Methods to encourage market demand		1695
6.2.2 Policy learning:		
- 6.2.2.1 Learning from UK PFIs	258	
- 6.2.2.2 Learning from Irish PPPs	189	
- 6.2.2.3 Public sector learning	53	
- 6.2.2.4 Learning from PPP projects in other countries (apart from the UK) and from other entities	47	
- 6.2.2.5 Private sector learning	10	557
6.2.3 Public sector expertise		737
6.2.4 Quality of projects		431
6.2.5 Coordinate deal flow		141
6.2.6 Performance of PPPs		54

In the analysis which follows, *6.2.1 Methods to encourage market demand* examines interviewees' reactions during the extended study to the methods put in place by the Irish government to encourage the market. *6.2.2 Policy learning* examines policy learning from a number of different sources. *6.2.3 Public sector expertise* examines knowledge of PPP and training given in government departments. *6.2.4 Quality of projects* specifically examines risk transfer, quality, step-in rights and performance specifications in PPP. *6.2.5 Coordination of deal flow* examines whether a market environment exists, particularly where there is a consistent and coordinated flow of PPP deals. Finally, *6.2.6 Performance of PPPs* analyses whether there is independent oversight of PPP.

6.2.1: Methods to encourage market demand

A successful PPP programme requires a strong and vibrant market of providers which will create competition, contribute to quality work (UNECE, 2008) and thus enhance the capacity of PPP. Matos-Castaño (2011) writes that in times of uncertainty in the financial market, government needs to create confidence and support to solve difficulties. Jooste et al. (2009) suggest that actions to make the market more attractive for the private sector during such times could increase private sector capacity in PPP. These actions involve applying a legal framework (examined in *5.3.2.2 Legal and regulatory framework)*, coordinating the PPP

deal flow to avoid the bunching of projects (Jooste et al., 2009) and developing a domestic capital market (Jooste, 2010).

Verhoest et al. (2013) emphasise that it is imperative to have a clear pipeline and timetable of PPP projects which government is committed to procuring. Opara (2014) argues that this will ensure that the motivation of the private sector remains high and Matos-Castaño (2011) contends that this will contribute towards competition in the market which is necessary for successful PPPs.

The findings of the pilot study outlined in chapter 4 indicated that prior to the financial crisis, Ireland suffered from delays in contract awards and financial closure and uneven demand. It was also found that it was initially difficult to attract international companies and to create sufficient market interest for scalability reasons, but that the government was addressing this issue by creating a pipeline of PPP projects (Sheppard and Beck, 2016). However, the extended study conducted in 2016 indicates that there are still concerns in this area.

This theme examines interviewees' reactions as documented in the extended study to the methods put in place by the Irish government to encourage the market with a focus on whether they have been successful in building capacity, and the analysis also highlights issues surrounding these methods. For example, the Irish government introduced initiatives to put design-led PPPs with planning in place, to reduce PPP timeframes, to partially refund bid costs, and put a pipeline of projects in place. Other issues which arose during the analysis were the small scale of the Irish PPP market and the concern with the lack of contractor capacity in Ireland.

International interest in Irish PPPs was very positive prior to the financial crisis. Ireland had received expressions of interest in PPP competitions from Australian, British, Dutch, French, German, Portuguese and Spanish companies (NDFA, 2006).

The financial crisis, beginning in 2008, resulted in a downgrading of Ireland's credit rating which presented difficulties for the private sector in financing capital investment projects. During the early part of the financial crisis, PPP projects in Ireland continued to reach financial close and the PPP model was still considered to be robust (NDFA, 2009).

However, as the financial crisis escalated, securing foreign capital became more difficult for Irish-based investments (IBEC, 2011) coupled with a public finance crisis (Reeves, 2013b) and a sovereign debt crisis (NDFA, 2012). Jooste et al. (2009) noted that this was a global problem, with the large international project finance banks refocusing activities

on home markets in the European PPP market (C&AG, 2012) and the number of banks providing funding for infrastructural projects decreasing significantly (NDFA, 2010). This culminated in a very weak fiscal position in Ireland in 2011 where the capital available to the government to spend on infrastructure projects was significantly reduced (NDFA, 2012). During this time, the market was tense and any "project delay [was] interpreted as the Government stalling or withdrawing its support for a project. The … high profile cancellations of Thornton Hall Prison and the Decentralisation Offices [did] not help market confidence in this regard" (IBEC, 2011, p.29).

In the extended study, the consensus among interviewees was that the cancellation of PPP projects and uncertainty in the Irish PPP market during the financial crisis severely affected state creditability and in turn weakened PPP capacity. With the financial crisis in 2008 leading to a very weak fiscal position in 2011, the government stalled or withdrew its support for some PPP projects and in other cases cancelled projects (see *5.3.4 Project portfolio*). As an interviewee who formerly worked with the NDFA said:

> the number of PPPs that were initiated during 2008 to 2014 … there's none… might be one or two in the schools area … they are only coming back into vogue because the private sector … is interested again (P4, 2016)

Interviewees spoke of this period of uncertainty in the Irish PPP market. A private sector interviewee from a construction company who failed on the Primary Care bid contrasted 2016 with this period:

> the market is busy so the margins are back to sustainable margins which three or four years ago … were cutthroat prices and people were pricing jobs at cost or below cost hoping that they get the job and hoping that they can get money out of it (P16, 2016)

Another private sector interviewee involved in PPP since the pilot projects felt fortunate that during this period they:

> never got on the shortlist so I didn't suffer in the crash of the NDFA pulling all those jobs (P19, 2016)

A private sector interviewee involved in a consortium and with experience of education projects spoke about the cancelled third level bundle and discussed a company that:

> completely exited the market as a result of that project (P24, 2016)

The effect on the market as a whole was devastating as one private sector interviewee involved in PPP since the pilot project said:

> I've built a lot of relationships with many contractors … who aren't here now sadly after the crash (P19, 2016)

Public sector interviewees also spoke of this uncertainty in the Irish PPP market. A public sector interviewee involved in the Primary Care projects spoke of a cancelled Health project and how all their work had been to no avail:

> we were at the point when we were just ready to go to market (P22, 2016)

The consensus among interviewees was that during this period there was a loss of state credibility in the Irish PPP market. A PPP consultant who has worked on stage 1 and 2 PPP projects in Ireland spoke of the lack of state credibility due to cancelled projects resulting in a lack of interest in Irish PPPs by the market. This interviewee went on to say that the market might come back but it will be at a higher price (P6, 2016). A private sector interviewee who was successful in winning the Primary Care projects and who has experience of the international PPP market spoke about the effect cancelled projects had on their company:

> I think in my organisation, people were so put off Ireland that they were not prepared to go ahead with it so we pulled out then (P18, 2016)

Another private sector interviewee involved in a consortium and with experience of education projects said that this time was a:

> very frustrating period … [and experienced a] loss of appetite (P24, 2016)

A number of public sector interviewees spoke of the loss of state credibility and expressed concern of the effect that cancelling projects had on the private sector. For example, a public sector interviewee involved in the Grangegorman project said:

> what's been hugely damaging … the number of PPPs that the State itself cancelled … the Metro North obviously has left a very sour taste but also the cancelling of the Third Level bundle, the National Concert Hall, Thornton Hall Prison, each of those projects somebody, somewhere spent several million before they were cancelled… we've had among the teams bidding on our project … who have been badly stung on previous projects (P5, 2016)

The effect of the cancellation of projects on the private sector was expressed by a private sector interviewee who has worked on stage 2 and 3 PPPs:

> the private sector had spent millions on bids, like they never got any money back (P13, 2016)

A public sector interviewee involved in Justice projects also spoke of the effect of cancellations on the private sector. This interviewee told a story of how a private sector

interviewee stood up at a meeting with the then Minster of State for Public Service Reform and the Office of Public Works, Mr Brian Hayes TD, who announced new measures to instil confidence and maximise market participation:

> [the] company who were in the CCJ … they reckon they'd won the Concert Hall and they put millions into that … they were very annoyed … when that was … cancelled … their chief executive … actually stood up at the meeting and lambasted the government for [it] (P7, 2016)

Another public sector interviewee involved in Environmental projects expressed concern at the financial losses incurred by the private sector during this time:

> I think we suffered a bit of a credibility … during the recession when projects like the Metro collapsed … companies put a lot of money into the Metro projects… clearly we've lost some credibility (P9, 2016)

However, a public sector interviewee with more than 15 years' experience of working in transport projects said:

> State credibility then was an issue, it's not an issue today (P3, 2016)

In recognition of the damaging effect this period had on the Irish PPP market, a domestic infrastructure stimulus package was announced in 2012 (Department of Public Expenditure and Reform, 2012). During this period the EU examined alternative ways of funding Europe's future investment in infrastructure (IBEC, 2011). Ireland took this into account and secured funding from a combination of the National Pensions Reserve Fund, the European Investment Bank/Council of Europe Bank, domestic banks and private investment sources. Details of this are examined in *5.3.4 Project portfolio*. In the Minister Brendan Howlin own words: "Although the public finances are severely constrained, it is important that we build for the future" (Department of Public Expenditure and Reform, 2013).

A motivation for this PPP programme, apart from developing infrastructure, was to create jobs and stimulate the economy. This was quite different from the objectives of previous PPP programmes. Tenders for projects were required to participate in job-creating measures. The NDFA explained why it was using a PPP programme:

1 There was a borrowing requirement to be "off balance sheet" in accordance with Eurostat rules so as not to affect the general government balance;
2 It would enable risks such as design or construction risk and availability or demand risk to be transferred to the private sector;
3 It was important in the context of the deficit reduction programme and the EU-IMF Programme of Financial Support for Ireland;
4 The programme was sized so that the unitary payment obligations were affordable within budgetary arithmetic;
5 It would have a multiplier effect of investment to stimulate jobs and growth;
6 There would be social and community benefit provisions included;
7 It would have features incorporated to assist SMEs.

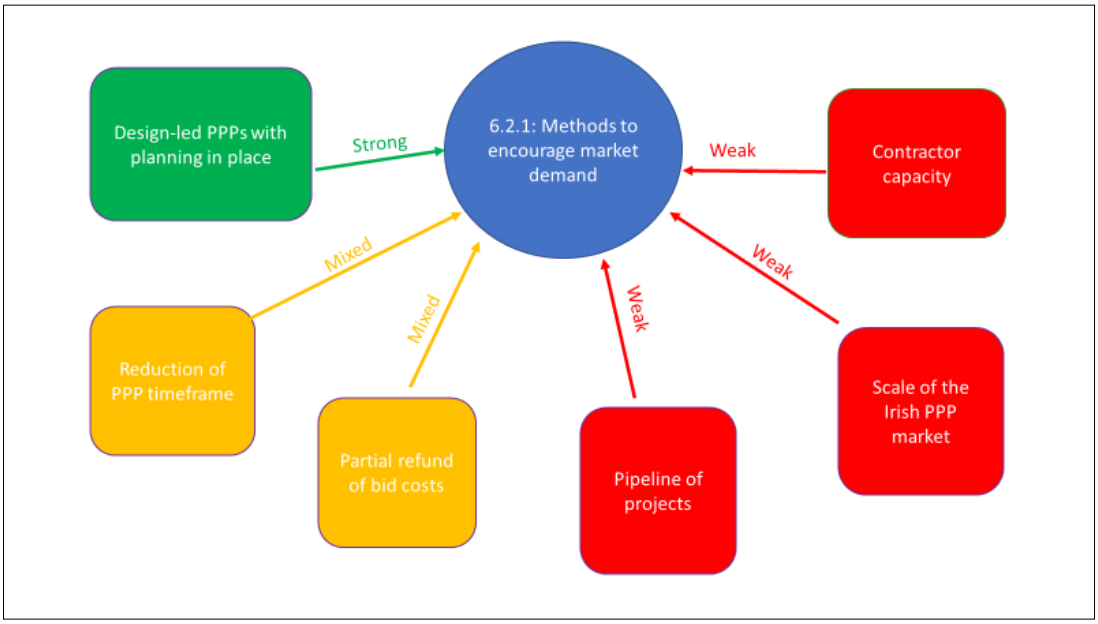
(National Development Finance Agency, 2013)

The government was called on to identify a clear pipeline of projects and to keep the market informed to facilitate formation of bidding consortia and workload planning (IBEC, 2011). The reason for this was that "the market is broadly aware of the pipeline of projects but there is no accurate information or up-to-date source, in particular, on timing. The PPP project tracker is not updated very regularly" (IBEC, 2011, p.21).

The findings of the pilot study discussed in chapter 4 were that in 2013, the Minister of State for public service reform and the Office of Public Works announced changes to PPP projects aimed at instilling confidence and maximising market participation. These changes included reducing to 15 months the timeframe for preparing PPP projects to the market through to contract award, and reimbursing bid costs to unsuccessful bidders. The Minister also stated that the PPP process would be streamlined, with less documentation and meetings, a "design-led" approach where specimen designs are drawn up prior to the bidding process (Sheppard and Beck, 2016). The aim was to instil confidence and maximise market participation.

When the study was extended in 2016, it was found that design-led PPPs with planning in place are useful to the private sector but were stifling innovation. Despite an effort to reduce PPP timeframes, they were still very long. Moreover, it was felt that the partial refund of bid costs was a gesture and not significant in building private sector capacity; there was still a lack of a pipeline of PPP projects; the scale of the Irish PPP market was a problem; and there was a lack of contractor capacity in Ireland. This is summarised in Figure 6.1 which outlines the affect that each has in building the capacity of PPP. Each of these is now analysed.

Figure 6.1: Methods to encourage market demand



Design-led PPPs with planning in place

In Schools Bundles 4 and 5, stage 3 Justice projects and Primary Care projects, there has been a move to design-led PPPs with planning in place as distinct from stage 1 and 2 PPPs where the design and planning were part of the bidding process. The aim of having design-led PPPs with planning in place is that it reduces the time it takes PPPs to go to market and it also helps to reduce planning risk. However, as Aziz (2007) explains, a reason given for PPP is that it brings innovation by the private sector in service delivery, and if the design element is taken away from the private sector, there is concern that this will restricts innovation.

The extended study indicates that design-led PPPs with planning in place have indeed stifled innovation in some PPP sectors and the justification for this measure seems to be mostly based on pragmatic grounds. A private sector interviewee involved in Justice explained that the NDFA introduced this initiative in 2010-11 (P11, 2016). A private sector interviewee working on Primary Care projects explained that having planning in place was to:

> reduce the procurement lines because the industry was complaining about the cost … it was a key thing for the NDFA to say… we're reducing the timeframes which means you spend less money, you have planning which reduces your risks, we give you a little bit of your costs so it made … attractive (P18, 2016)

This was introduced despite the NDFA having reservations about it as explained by a public sector interviewee working on Justice projects:

> the NDFA at one stage said, the developers won't like this because it led, it doesn't allow them design everything (P15, 2016)

However, the consensus among the private sector interviewees is that they are in favour of this approach, as a public sector interviewee involved in Justice projects said:

> the developers responded quite well (P15, 2016)

An interviewee from a construction company who failed on a Primary Care said:

> all the contractor then had to do was … the final detailed design …make it attractive to bidders [by] trying to cut down hugely on the bidding costs…we still engaged a design team but the costs were dramatically lower (P16, 2016)

There was criticism of this approach from interviewees in certain PPP sectors to the effect that it can stifle innovation, but other sectors welcomed it. A private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to be involved in Social Housing PPPs said this approach is useful for straightforward PPPs in that it:

> took a lot of risk out of things for cookie cutter stuff like schools (P13, 2016)

Another private sector interviewee involved in PPP since the pilot project speculated that this approach would be used in Social Housing as:

> social housing is perhaps quite straightforward and easy … because it's so prescriptive … they've said here's a site, here's [the] amount [of] units you want … there's no innovation there (P19, 2016)

A public sector interviewee working on Justice projects explained that it was also appropriate in heritage buildings:

> there are some advantages to it in … the bundle we're doing now is unique in that there's a lot of heritage components in it which wouldn't be normal …we've a mixture of new builds and heritage buildings so it's probably better for heritage building because consideration of conservation has been given … and that's all been passed by the various heritage organisations and groups at planning stage (P7, 2016)

This approach was also favoured in the Primary Care sector. For example, a private sector interviewee working on Primary Care project said:

> primary care … all came with the planning … you can be innovative only to a certain extent … you're … limited in terms of your build form [and] materials (P18, 2016)

However, the interviewee did say that innovation can be introduced in other ways:

> it doesn't mean you can't do absolutely anything with it. I think we did a lot of clever things around landscaping, around built environment in terms of patient benefits…we were more innovative in terms of the layout of the building (P18, 2016)

A private sector interviewee from a construction company which failed on the Primary Care bid said:

> how much innovation do you get out of a primary care centre in the first place? (P16, 2016)

However, it is useful to bear in mind that this interviewee failed in their Primary Care bid.

This approach was also favoured by the Courts Service with a public sector interviewee involved in Justice projects being of the view that:

> [if] the PPP failed they would still own the design (P7, 2016)

It is an approach favoured by another public sector interviewee who is currently working on Justice projects, and who stated that:

> actually it did work … fine (P15, 2016)

It should be noted that this interviewee works in the OPW and has called for more control by the public sector of PPP.

However, other PPP sectors felt that it restricted innovation. For example, the lack of innovation in Education projects was spoken about by a public sector interviewee working on Justice projects:

> I spoke to someone in Education about… it's probably higher cost doing it that way for us because … if you're a PPP company designing a building from scratch, you'd be building in your own FM [facilities management] procedures into the size, shape, layout of the building which would …. drive costs down so when you're given a building that's at planning stage … you can tweak with internals [but] you can't … completely change it. It means it's probably less efficient than if you matched it to your own procedures (P7, 2016)

This interviewee also said:

> you don't get the innovation you'd get from a blank piece of paper (P7, 2016)

A private sector interviewee involved in a consortium and with experience in Education projects does not prefer one approach over the other but did comment that this type of PPP is here to stay:

> our own architects would prefer their own approach… I suppose the authority try and bring everyone up to a similar level … I've done both, it wouldn't bother me if I had to go back to designing, monitoring design…I don't think they'll ever go back to bidders having design again (P24, 2016)

Despite design-led PPPs stifling innovation, and innovation being seen as a reason for PPP by Aziz (2007), they appear to be here to stay. It is recognised that these PPPs are appropriate for straight forward PPPs such as Primary Care and also heritage buildings which are suitable for design and planning to be controlled by the public sector. However, this initiative was primarily introduced to stimulate the market and the consensus among the private sector is that it has been useful. Design-led PPP therefore can be seen as having contributed towards building capacity in the private sector.

Reduction of PPP timeframe

Another measure introduced for Phase 1 of the stimulus programme was to reduce the timeframe from 21 months to 15 months for preparing PPP projects from the time they go from market through to contract award. This complete PPP procurement process is slow prior to construction, as explained by the senior public sector interviewee involved in PPP decision making:

> it's the signing up, getting the contracts, getting the funders on board, running the … competitions for the funders and for the project and then the funders' due diligence … it's just [a] very slow process. But once it goes into construction it will be faster (P8, 2016)

Despite introducing measures to reduce the procurement timeframe, the process is still very long. This was confirmed by a failed private sector bidder on the Primary Care project who said of the bidding process:

> it's going to cost me a fair bit of money … it's going to tie up those people for quite a long time and the job itself could take another year to get … to financial close (P16, 2016)

This interviewee explained that PPP has become less attractive to the private sector compared with other types of procurement:

> in the context of … the private sector it's not attractive… the alternative is one of the developer rings up and says, look I've a job here we don't even have to bid it (P16, 2016)

This interviewee also noted that now they will probably not bid on PPP projects:

> we probably wouldn't be too pushed about it … there's a lot of work out there now and attractive work … the tender process is … more straightforward … if that primary care centre job came out today there's a good chance we probably wouldn't go for it (P16, 2016)

The introduction of a reduced timeframe for preparing PPP projects to market has not had a significant effect on encouraging the market and the private sector still considers the current reduced timeframe to be too long making PPP less attractive than other forms of procurement. The contribution of a reduction of PPP timeframes has therefore had a mixed effect on building the capacity of PPP in Ireland.

Partial refund of bid costs

It was recognised by both public and private sector interviewees that the partial refund of bid costs in Phase 1 of the stimulus programme to unsuccessful bidders was a useful gesture and has helped in a limited way in encouraging bidding activity. However this is seen only a temporary measure. A private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to work on Social Housing projects referred to the refund as "token" (P13, 2016). Another private sector interviewee involved in PPP since the pilot project and who failed on a bid for Primary Care said:

> it didn't pay for your bid costs but it went maybe a long way towards them … but we did get it at primary care (P19, 2016)

This interviewee went on to state that on the recent bids:

> I've lost … nearly seven figures … doing these three or four bids…All we wanted to do was win one … but we haven't lost an appetite if only the process was a bit cheaper or better (P19, 2016)

A private sector interviewee who works for a successful bidder on the Primary Care projects compared the various initiatives introduced. The interviewee spoke of the cheque that the NDFA will raise, funded by them, to refund part of the bid costs to unsuccessful bidders. This interviewee said that it was not the most significant measure introduced:

> I personally think that the fact that they would refund €300,000 is not as key as the fact that they had a pipeline … because if you're in that game you're spending the money, you have the budgets, they're committed up front at the start of the year or five years ahead in the long-term plan. It's good to get something back if you lose (P18, 2016)

There was consensus among the public sector interviewees that the partial refund of bid costs was only a gesture. A public sector interviewee involved in the Primary Care projects said:

> it's probably a drop in the ocean … I suppose that was introduced … based on the broader research that the NDFA would have done with the market (P22, 2016)

A public sector interviewee involved in an education project spoke of bid costs being high and concluded that the private sector will only bid if they can afford to:

> it's a very risky game to be playing particularly if you're not a multi-billion corporation … because the cost is just so high … the … odds aren't great (P5, 2016)

However, an interviewee who formerly worked with the NDFA was of the mind that the private sector always complained of bid costs, and that even if they lost bids they gained from experience:

> you'd hear … through the board about the NDFA being complained to about, we're spending three or four million quid on developing this bid and then we lose …And is that fair to us? … the private sector … actually gain from … participation even if we lose because we bring ideas to the table that then you can use (P4, 2016)

This interviewee suggested that partial bid costs should not be refunded:

> but look I always took the view that, we shouldn't give in to this … if they want to bid for it let them bid for it … it's completely voluntary (P4, 2016)

The partial refund of bid costs is a measure introduced only in Phase 1 of the stimulus programme, as confirmed by the senior public sector interviewee involved in PPP decision making:

> It was announced as a one-off, temporary measure on the basis that we were launching a new PPP programme and we wanted to make sure people did come in for it … it wasn't something we'd be doing permanently, so that really ends now with the… projects from that first phase are, we still have the Health PPP … then we've Schools Bundle 5 and we've Grangegorman and then that's the end of Phase 1 (P8, 2016)

A public sector interviewee currently working on Justice projects and who has worked on pre- and post-crisis projects commented on the wisdom of the partial refund of bid costs being only for Phase 1:

> if you introduce it it's very hard to take it back (P15, 2016)

There seems to be consensus among the interviewees that the partial refund of bid costs is a useful gesture but not the most significant measure introduced and as such has not had a significant effect on encouraging the market. Its contribution to building the capacity of PPP in Ireland is therefore limited or mixed.

Pipeline of projects

Aligned with the scale of the PPP market in Ireland is the visibility of a pipeline of projects. Verhoest et al. (2013) argue that it is imperative to have a clear pipeline of PPP projects with a timetable for procurement to which the government is committed to procure. The Infrastructure and Capital Investment Plan 2016 – 2021 discusses the improvements of the Irish economy and outlines a pipeline of projects: "Ireland's exit from the EU/IMF programme, continuing improvements in the economy generally and the successive upgrades of the Irish sovereign by the credit rating agencies" and goes on to explain that "together with a good pipeline of projects, [this] has firmly put Ireland back in the project finance markets" creating "increased levels of market interest" (Department of Public Expenditure and Reform, 2015, p.41).

During the extended study, a PPP consultant explained that the private sector needs to have several projects on the go so that any bids they win will carry them through the failed bids. The cost involved is called the development cost (P6, 2016). This requires a clear pipeline of projects. The significance of having a pipeline to the private sector was also explained by a public sector interviewee working on a stage 3 education project:

> PPP is not viable unless there's a steady stream of projects … you need to be certain that somewhere over a long period of ten or fifteen years that you're going to be winning enough to cover the bid costs of the ones you don't win (P5, 2016)

A former private sector interviewee now working in the public sector also spoke of the significance to the private sector of a pipeline of projects:

> it costs them a lot to bid, it's a long, timely cost so they like to bid knowing … if they don't win this one, there's another one following (P14, 2016)

However, the number of projects, their timelines and information on the projects are not clear, and there is consensus among private sector interviewees that the existing pipeline of projects is insufficient. When asked about the pipeline, a private sector interviewee involved in stage 2 and 3 Education projects and a successful bidder on the Grangegorman project said:

> they publish the capital plan so people like us read the capital plan and say … maybe the timelines are a bit fluid but this is coming up (P12, 2016)

This interviewee explained the implications of this unclear pipeline:

> You can't decide on a Monday that you're actually going to share with the world what you've been working on for six months on a Friday and expect them to get on board and bid from the following Monday. People have to understand what the project is about, what the timelines are, they have to be able to go back and look at what's happening in their own business in their own world (P12, 2016)

Another private sector interviewee was critical of the pipeline in the Infrastructure and Capital Investment Plan 2016 - 2021. This private sector interviewee, who is working on Education projects, said:

> It could have been clearer … and it probably still could be clearer … in that some of these announcements are made, are driven by political announcements and the exact clarity is to what it all means, what does that mean in projects? How many projects? Are they the same projects that were announced last time? Is it a new programme? How many of them will be PPP? It's often a bit of sleuthing work when you are sitting on the outside … so I'd … not really know what it is that's being announced … they'll put a sub amount of PPPs in there but you can't identify specifically which one it is, it often takes a couple of months to get to the bottom (P14, 2016)

A private sector interviewee working on Primary Care projects summed up the private sector's concern over the lack of a sufficient pipeline when they discussed that in 2016 the only significant announcements were Primary Care projects:

> one project which is definitely not a pipeline (P18, 2016)

The lack of a clear pipeline of projects has created uncertainty among the private sector. The pipeline of projects referred to in the Infrastructure and Capital Investment Plan 2016 – 2021 is opaque and confusing to the private sector. This has implications for Ireland in attracting private sector interest in PPP. The contribution of the pipeline of projects to building the capacity of PPP in Ireland is therefore weak.

Scale of the Irish PPP market

The findings of the pilot study discussed in chapter 4 were that it was difficult to attract international companies to Ireland and to create sufficient market interest for scalability reasons (Sheppard and Beck, 2016).

When the study was extended in 2016, this still seemed to be the case as there is a lack of ability for Ireland to attract international bidders. The significance of the scale in the market was explained by an interviewee who formerly worked with the NDFA:

> market interest is … predominantly dictated by the scale of the project (P4, 2016)

The issue of scale is an ongoing problem for the Irish market. A private sector interviewee involved in PPP since the pilot project explained that because of Ireland's size, it only attracts Irish bidders, while the costs involved in bidding require a large international company to bid:

> Ireland … abuse the bidder process… Ireland are going to be stuck with the fact that it's going to be home grown bidding teams and … because of the size of the bid costs you need big players who can afford these things so there's a balance to be had about putting a bid out, making it affordable to do so to me the answer is to do it locally and therefore I will always try and find local contracting partners in Ireland to align with (P19, 2016)

This was also highlighted by the public sector interviewee involved in Justice projects when referring to international companies:

> we have so few of them that are active here … there's probably three or four more worldwide who could potentially be active here … there is a significant barrier to entry here to a market that isn't that big in the first place (P7, 2016)

There was a concern with the Primary Care projects that there may not be a company in Ireland that could handle the project, as expressed by a public sector interviewee who worked on the Primary Care projects:

> we didn't believe there was a single firm out there that was going to be able to design that … there were no firms with that level of resource really left in Ireland … you'd have been looking at external firms … looking [at] … our … knowledge of the market and who was out there and who was left and who could handle this size of job (P22, 2016)

The interviewee explained that they felt that by awarding it to an external company it was:

> an opportunity … to actually spread this work around (P22, 2016)

However, a private sector interviewee involved in PPP since the pilot project and based in the UK spoke of how difficult it is to get contractors to come to Ireland:

> there doesn't seem to be any appetite among the dozen or so top contractors that we deal with over here to go to Ireland (P19, 2016)

The size of the Irish market also was a concern for the senior public sector interviewee involved in PPP decision-making who said:

> we're small, you know we're on the periphery and our programme isn't as big and as continuous as some … the Germans can … keep everyone going for decades so yeah … it's a challenge for us (P8, 2016)

However, a public sector interviewee with more than 15 years' experience of working on Transport projects said that they believe the NDFA will say:

> they are getting expressions of interest from loads of foreigners (P3, 2016)

The scale of the Irish PPP market is an ongoing problem in attracting foreign bidders. A vibrant market is required to build private sector capacity and Ireland is too small to supply this and therefore this weakens the ability to build capacity of PPP.

Contractor capacity

There is a concern that there is a lack of contractor capacity in Ireland. The consensus of the public and private sector interviewees was that the NDFA is trying to encourage local contractors and suppliers to become involved in PPP. For example, a public sector interviewee spoke of this as follows:

> obviously you are open to the full EU market when you tender … but it was also important … that the firms in Ireland had an opportunity to compete the same as everyone else…[yet] there were no firms with that level of resource really left in Ireland (P22, 2016)

A private sector interviewee from a construction company which failed on a Primary Care bid also said that:

> the NDFA they were trying to encourage … more local contractors and suppliers … there's a political thing to that where the big contractors are the only ones capable of pricing the big part, they want to make sure that the smaller contractors have a chance to get parts of it … SMEs [small medium enterprises] would be frustrated at times that they can't price on these big jobs (P16, 2016)

There is scope for Irish contractors to team up with bigger international companies, as discussed by the senior public sector interviewee involved in PPP decision making:

> there's lots of scope for … capacity building … it's a matter of linking ... the foreign guys [who] don't want to have big teams over here and the local people [who] can't do the big things so there must be a way … to marry those two and I think that's our challenge for the next phases as they get launched … working with the NDFA and with the construction sector … to see how we deal with this issue (P8, 2016)

As discussed earlier one of the aims of the PPP programme announced in 2012 was to stimulate jobs and growth. A private sector interviewee who works for a successful bidder on the Primary Care projects said that their:

> focus has been more about employing people that have been on an employment register and making sure that local contractors are involved (P18, 2016)

The emphasis on local employment was also discussed by a private sector interviewee involved in a consortium, who said:

> it's a huge part of our local employment strategy (P24, 2016)

There was criticism that the PPP awards are not being shared out fairly as suggested by a private sector interviewee involved in stage 2 and 3 PPPs:

> the procurement has not resulted in a fair share … going to a wide range of contractors … there's been a quite narrow group of winners (P11, 2016)

A further criticism that arose during the interviews was that the Irish PPP market is dominated by one player. For example, a private sector interviewee involved in stage 2 and 3 PPP projects and currently involved in a Justice project said:

> BAM have been winning quite a lot, I think the industry would say they might be winning too much for the health of the overall sector and that might just be down to the fact that they're very good at bidding (P11, 2016)

BAM is very familiar with the Irish PPP market, as a public sector interviewee who has worked on stage 2 and 3 Justice projects said:

> in the recent bundle those bidders that have been active in the Irish market seem to have an advantage over those bidders who are not or who are new entrants because they are familiar with the contract documentation, the procedures, the marking schemes … that's not a bias to do with how things are set up it's a bias to do with … your own familiarity with the market. … BAM have won a very high percentage of projects (P7, 2016)

However, when asked about, this the representative from BAM pointed out that while it has won a lot of bids, it has been over a long period:

> I firmly believe that we were just a better consortium but I don't think that's the case anymore … we're delighted with that because … if we were to have a monopoly in the market there just wouldn't be a pipeline … we like to win as much as we can but we're conscious that there has to be a market as well for this … I can understand … how people would be … conscious that we have been successful in the past but that was a period of time where … there wasn't a lot of players in the market (P24, 2016)

The senior public sector interviewee involved in PPP decision-making commented on this also:

> if they want to bid for everything you can't stop the bidding, if they're the best we can't not give it to them so we have to follow the procurement rules… it is something that, that could be problematic for us because people say, there's no point in going over there you just won't beat them. And yet if that happens and no one else comes then you don't have competitive tension and we don't know we're getting value from them so it is a problem and because we're a small market and because we don't have as big projects as some of the others have that is a problem for us that we have to try and manage … PPPs need to have competitive tension, need to have a market (P8, 2016)

The NDFA is trying to encourage local contractors to engage with PPP but a problem highlighted later in *6.2.4 Quality of projects* is that as the public sectors tries to pass risk on to the private sector, this results in the private sector passing risk down the line to smaller sub-contractors, which is prohibitive to smaller contractors.

The Irish market is dominated by one player yet, as noted under the discussion about the scale of the Irish market, local contractors need to align with larger contractors. This is a catch-22 situation as there are only three or four international companies willing to bid in Ireland and newer entrants to the market are at a disadvantage as compared to those who regularly bid are familiar with the bidding process. Creating market demand requires a market that is easily entered into, but the Irish market appears to be a difficult market to enter, which in turn weakens the building of capacity of PPP in Ireland.

<u>The current market</u>

Despite issues with the pipeline and scale of Irish projects, there is interest from the market. This is the case notwithstanding the fact that construction still has not recovered in Europe to pre-crisis levels. A public sector interviewee who is working on a stage 3 education PPP project said:

> you know by the time we actually came to market things had improved hugely (P5, 2016)

A possible reason for this is that the international PPP market is quiet at the moment, as suggested by a private sector interviewee involved in Justice projects:

> there's insufficient demand from other countries so you'll find a lot of international contractors coming to Ireland to bid (P11, 2016)

The NDFA engages in market testing so see if there is an appetite, as explained by a private sector interviewee involved in a consortium:

> the NDFA will tell you that they put a lot of work into … market soundings and market testing (P24, 2016)

Certainly in the case of Primary Care the public sector interviewee involved confirmed:

> we were doing the market soundings, long before … we even went to market there was a high level of interest from what we could see (P22, 2016)

Another private sector interviewee involved in Primary Care said that despite delays:

> Ireland should hold their head high… they've brought out a programme of when they were getting the procurement papers ready … maybe there's been a quarter or four or five months' slippage but they have actually achieved that programme (19, 2016)

A public sector interviewee involved in Primary Care projects spoke of the increased interest in these projects:

> there was no shortage of takers in terms of this project…to say the place was sold out was an understatement … you had people almost packing the car park (P22, 2016)

However, there are concerns that, as the market is currently quiet, private sector capacity will diminish. The senior public sector interviewee involved in PPP decision-making acknowledged that the lack of activity in the Irish PPP market was a concern:

> there's a bit of a lull now … we've announced two phases … they're all at the planning stage now and it will take some time before they actually go to market and the question is, will the funders have gone away because we're not issuing one every couple of months or something? (P8, 2016)

Summary 6.2.1 Methods to encourage market demand

Matos-Castaño et al. (2012) contend that governments should develop the necessary capacity to ensure that projects are brought to fruition successfully. They write that capacity to undertake PPPs will strengthen the ability to structure and govern PPP projects which is necessary for PPP development. The findings of the pilot study outlined in chapter 4 indicated that, prior to the financial crisis, Ireland suffered from delays in contract awards and financial closure and uneven demand. It was also found that it was initially difficult to attract international companies and to create sufficient market interest for scalability reasons but that the Government was addressing this issue by creating a pipeline of PPP projects (Sheppard and Beck, 2016).

The extended study indicates that the cancellation of projects during the financial crisis and subsequent loss of state credibility in the PPP market has weakened Ireland's capacity to undertake PPPs. The stimulus package announced in 2012 and new measures announced in 2013 have had mixed results in terms of contributing to building capacity in PPP. The introduction of design-led PPPs with planning in place has been welcomed by the public and private sector for so called "cookie-cutter" PPPs and also heritage PPPs. However, there is concern that this has resulted in a lack of innovation, which may be a problem as this is one of the motivating factors given for PPP.

The reduced timeframe for preparing PPP projects to the market through to contract award has not been significant and the process is still seen as too long and is making PPP less attractive than other forms of procurement. The partial refund of bid costs to unsuccessful bidders in Phase 1 of the stimulus programme was welcomed by interviewees. However, interviewees tended to see this as a gesture and as insufficient in terms of overall bid costs and has not had a substantial effect on encouraging the market.

The pipeline of projects introduced in the Infrastructure and Capital Investment Plan 2016 – 2021 has been unclear and the timelines confusing for the private sector. This has implications for Ireland in attracting private sector interest in PPP. Another capacity weakness identified by interviewees was the difficulty in attracting foreign companies to bid in Ireland due to the relatively small scale of the market. The NDFA is trying to encourage local contractors to engage with PPP but the transfer of risk down the line to sub-contractors is prohibitive. The Irish market is dominated by one company, yet local contractors need to align with larger contractors. International companies willing to bid in Ireland are at a disadvantage as they are not familiar with the bidding process.

There is currently interest in the Irish market, but market activity is limited and the concern is that the private sector capacity built up will diminish which will have adverse effects on the sustainability of PPP.

6.2.2: Policy learning

The literature suggests that capacity to manage PPPs is enhanced by the institutionalisation of expertise and systems for learning and knowledge diffusion (Verhoest et al., 2015), all of which are key to PPP success (Matos-Castaño et al., 2014). This requirement to learn about the policy was recognised by the central PPP policy unit, the forerunner to the NDFA, which was situated in the former Department of the Environment, Heritage and Local Government. Accordingly the government stated: "It was recognised that PPPs are complex and that in the early years … there was a 'steep learning curve' for the public authorities" (Department of the Environment, Heritage and Local Government, 2003, p.7).

The findings of the pilot study discussed in chapter 4 were that, although the interdepartmental group tasked with exploring the introduction of PPP in 1998 endeavoured to learn from UK PFI experiences, it was unclear whether this was effectively communicated to public sector managers (Sheppard and Beck, 2016).

When the study was extended in 2016, interviewees spoke of PPP policy learning drawing on a number of different sources and Table 6.2 shows how *6.2.2 Policy learning* is analysed and subdivided into *6.2.2.1 Learning from UK PFIs*, *6.2.2.2 Learning from Irish PPPs*, *6.2.2.3 Public sector learning*, *6.2.2.4 Learning from PPP projects in other countries (apart from the UK) and from other entities*, and *6.2.2.5 Private sector learning*. The order in the following analysis is based on the number of text blocks identified against each sub-theme, as outlined in Table 6.2. The number of text blocks does not necessarily reflect the importance of the theme.

Table 6.2: Order of analysis of 6.2.2 Policy learning

Name	**Number of text blocks**	**Number of text blocks**
6.2 Theme 2 Capacity		3615
6.2.1 Methods to encourage market demand		1695
6.2.2 Policy learning		
- 6.2.2.1 Learning from UK PFIs	258	
- 6.2.2.2 Learning from Irish PPPs	189	
- 6.2.2.3 Public sector learning	53	

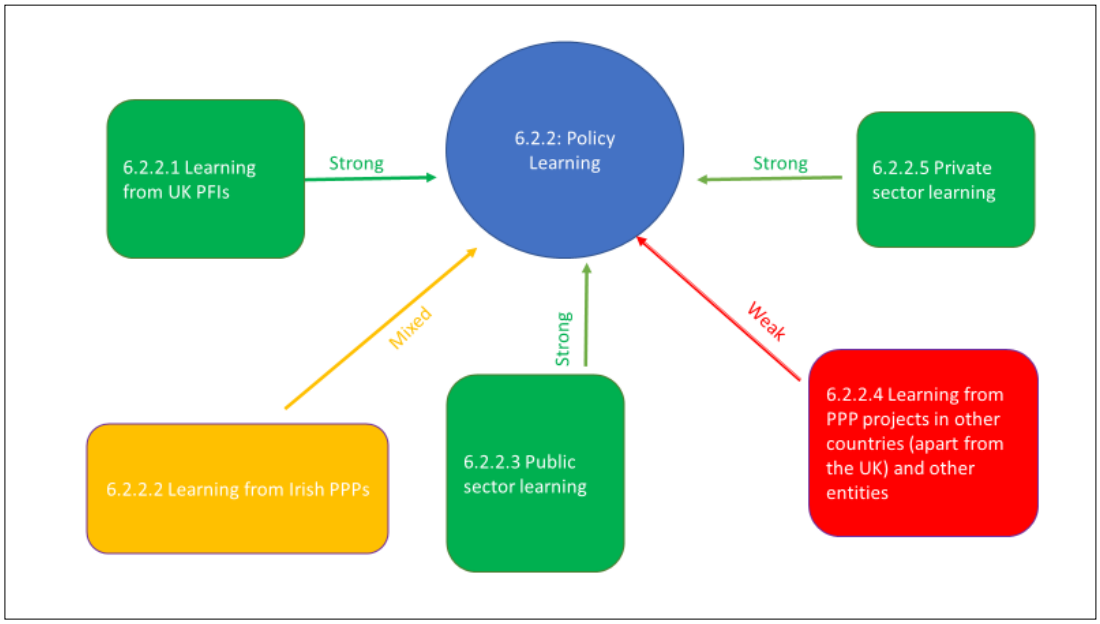
Table 6.2: Order of analysis of 6.2.2 Policy learning		
Name	**Number of text blocks**	**Number of text blocks**
- 6.2.2.4 Learning from PPP projects in other countries (apart from the UK) and from other entities	47	
- 6.2.2.5 Private sector learning	10	557
6.2.3 Public sector expertise		737
6.2.4 Quality of projects		431
6.2.5 Coordinate deal flow		141
6.2.6 Performance of PPPs		54

Further detail is given in Appendix P of the order of analysis of *6.2.2.1 Learning from UK PFIs* and Appendix Q of the order of analysis *of 6.2.2.3 Public sector learning*.

Policy learning was most spoken about by interviewees involved in stage 3 PPPs in the areas of Education, Justice and Primary Care. This suggests that learning from previous PPPs is considered important. As would be expected, policy learning was also most frequently spoken about by those with more than 15 years' experience of PPP. Obviously the long time-frame spent by these interviewees meant that they had more to say about what learning has taken place over the years.

Figure 6.2 outlines the varying strengths of different types of lesson learning that has taken place in relation to PPP and their contribution to building capacity in PPP. For example, the analysis found that learning from UK PFIs, learning from the public sector and learning from the private sector strongly contribute to building capacity in PPP. Learning from Irish PPPs and its contribution to building capacity in PPP is mixed, and learning from PPP projects in other countries, apart from the UK, and other entities is weak in its contribution to building capacity in PPP. Each of these sub-themes is now analysed in further detail.

Figure 6.2: Policy learning



6.2.2.1 Learning from UK PFIs

The UK introduced PFI in 1992. Countries introducing PPP or a form of PPP subsequently have availed of UK knowledge of this policy. For example, Matos-Castaño et al. (2012) write that the Dutch government hired advisers from the UK to help it draft its PPP contract and learnt from the UK experience. Ireland has also learnt from the UK as explained by Brian Murphy, then Director of the NDFA in a Dáil speech:

> My colleagues and I maintain extensive dialogue with our opposite numbers in the United Kingdom, both in the Treasury and the various procurement authorities, including Scottish Futures. The book on public private partnerships was written in the United Kingdom. The rest of the world has been learning from the United Kingdom (Dáil Éireann, 2012b, p.9)

Brian Murphy also confirmed that policy learning continues to take place:

> We have studied closely the findings of the National Audit Office's report … and also the introduction of the PF2 model which attempts to implement some of these conclusions and the lessons to be learned (Dáil Éireann, 2012b, p.9)

The extended study confirmed that Ireland relied heavily on the UK for guidance when the policy was first introduced. For example, a private sector interviewee involved in Justice projects and who has worked on stage 2 and 3 PPP projects said:

> All you have to do is look at the amount of stuff that they've done to date to understand that there's a very clear structure in place … it's heavily based on the … UK model (P11, 2016)

An interviewee who formerly worked with the NDFA also confirmed this:

> I mean it certainly wasn't an initiative … that we had pioneered … they were looking at Britain (P4, 2016)

The extended study indicated that Ireland learnt from some the mistakes made with PFI in the UK:

> we were very … influenced [by] … what went on with the PFI initiative in Britain and some of the mistakes that were made in Britain and we tried very hard not to replicate the mistakes…I think the Passport Office in Britain…was done by way of a PFI … threw-up huge financial questions … that as a case study I think that's been … a very informative one…we looked at Britain … to see the mistakes that were made in the Private Finance Initiative and not replicate them here (P4, 2016)

A public sector interviewee with more than 15 years' experience of working on Transport projects confirmed that UK advisers were hired when the policy was initially introduced:

> there was certainly direct contact with the UK housing agencies … the UK was one of the leaders then … so that's where everyone … looked to…[we] looked at what they had done in the UK, we got in our legal advisers, we got in our financial advisers and we brought in… UK advisers (P3, 2016)

UK advisers were also hired for the development of the Convention Centre Project. This was explained by the private sector interviewee working on the Convention Centre:

> we got a firm of advisers from the UK to advise on … the market (P10, 2016)

and learning from the UK is also ongoing with this project:

> we're…trying to speak to the Belfast office of [redacted] … because there's a process which is in a lot of UK PPP contracts called Benchmarking Market Testing but hardly in the Irish ones … in the first instance on certain dates you benchmark your services … you … get comparable evidence from similar contracts [to ensure] … what you're paying for a sub-contracting service is reasonable … [that] hasn't been done much in Ireland (P10, 2016)

Learning has clearly taken place from the UK experience of PFI. This theme is now analysed further with a focus on learning from different UK sectors including education, health, financing of projects, roads and courts in the UK, including Scotland and Northern Ireland. The last text block "Learning from PFI in general" is not analysed specifically but integrated in the other sections where appropriate.

Learning from Education Projects

The extended study indicates that learning from UK education projects is very strong, with both the public and private sectors learning from UK Education PFIs. For example, a private sector interviewee involved in stage 2 and 3 Education projects confirmed that learning from projects in the UK carried out by the UK segment of their company:

> it's about sharing … the centre of excellence … the subject matter experts were based in the UK because they had negotiated all of those NHS contracts and all … healthcare contracts … and the justice services contracts… when I speak with my colleagues in the part of the segment that runs PFIs for schools in the UK and I'll talk to my boss … he'll say to me, our contract is exactly the same…Or it's different here but it's the same there (P12, 2016)

Another private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to work on Social Housing projects also looked to PFI Schools in the UK:

> Scotland are probably ahead of the curve when it comes to here so I was actually on site on a PFI school in Scotland…I took a tour around some of them because I was meeting one of the PFI people over there (P13, 2016)

A private sector interviewee involved in PPP since the pilot projects pointed out that the company they work for is involved with PFI in the UK:

> we do an awful lot of PFIs so we know all the ins and outs and the financial models and how you maximise those and … [how to] get a winning bid so it works quite well from that point of view (P19, 2016)

The public sector has also learnt from UK Education PFIs. For example, a public sector interviewee involved in one of the cancelled education PPP projects pointed out that at

the time of planning, discussions took place with counterparts in Northern Ireland who were involved in PFI education projects:

> We were guided by what happened up North … we got good advice and good guidance … they had done a number of PFIs or PPPs and he was extremely helpful … we were over there a few times with him (P21, 2016)

The extended study indicates that learning from UK education projects has been very strong with both the public and private sectors learning from UK Education PFIs.

Learning from Health Projects

Learning that has taken place from UK Health projects also appears to be strong and both the public and private sectors interviewees pointing to lessons learnt. In particular, there is evidence that the HSE has sought to learn from the UK. For example, learning took place on stage 2 PPP projects, referred to as the National Plan for Radiation Oncology, which was subsequently postponed. This was confirmed by the public sector representative from the HSE who spoke about information gathering:

> when we were doing the radiation oncology project, we would have visited a number of projects there (P22, 2016)

Learning from the UK is continuing on stage 3 Primary Care projects. This was confirmed by a private sector interviewee who was successful in winning Primary Care projects. This interviewee noted that the HSE was open to hearing about how other countries are doing similar types of projects and what improvements can be made:

> the HSE has a model and it has an idea of how it wants to operate but … it was open to hear how other people are doing it and to bring in ideas on improvements (P18, 2016)

The importance to the private sector of PFI knowledge in the UK was expressed by the private sector interviewee who was successful in winning the Primary Care projects. The private sector companies involved teamed up with experienced UK partners to form a consortium that won the Primary Care projects:

> we teamed up with people who worked in … a big provider of primary care in the UK, PRIME, and they knew how these buildings need to operate and how they are best laid out for patients and the health provision (P18, 2016)

Learning from the UK is ongoing as confirmed by this interviewee who pointed out areas that the UK has implemented and where further learning by Ireland could take place:

> I think in Ireland it's not as well done yet in the UK it's done better because in the UK we would subscribe to economic benefits, KPIs… In Ireland … I think that's probably the next step (P18, 2016)

Learning also took place with bidders who were unsuccessful. For example, a private sector interviewee from a construction company which failed on the Primary Care bid said:

> one of our partners … would have had experience in the UK particularly in Scotland (P16, 2016)

Learning that has taken place from UK Health projects is also strong, and both the public and private sectors have drawn lessons from UK experiences.

Learning from Financing

Learning has taken place from UK financing of PFI as well. This was confirmed by a public sector interviewee with more than 15 years' experience of working on Transport projects:

> we were able to draw upon … for refinancing and stuff we did (P3, 2016)

This has created a consistency that bidders will be familiar with from being involved in the UK financing of PFI. A former private sector interviewee now working in the public sector with experience of stage 2 and 3 PPP projects spoke about the importance of UK approaches, when it came to financing:

> I think Ireland traditionally followed the UK, looked at market standards from the UK … We were attracting a lot of the same bidders so when they arrived they were expecting to find something that looked and smelled the same so why not make it the same … don't reinvent the wheel. Sometimes there were arguments around … we need to make it our own model, actually you don't, if it works … I think we have followed it … I think we've learned the positive lessons … We've adapted and developed a standard form of contracts that looks and smells and feels like a model that worked in, the UK PFI worked very well (P14, 2016)

This was confirmed by the public sector interviewee with more than 15 years' experience of working on Transport projects:

> because all of the funders coming in were all … UK based … they had all seen this before (P3, 2016)

Learning has taken place from UK financing of PFI and this has created a consistency that bidders will be familiar with from being involved in the UK financing of PFI.

Learning from Road Projects

Learning has also taken place from UK road projects, particularly by the public sector. For example, the public sector interviewee with more than 15 years' experience of working on Transport projects said:

> I always think we benefited greatly from coming after … the UK … and we were able to learn the lessons that they learned … there was certainly direct contact with the UK housing agencies … the UK was one of the leaders … everyone … looked to (P3, 2016)

Not only was UK policy followed in Transport projects, it was also adapted for Ireland:

> there was no point in small Ireland to come in and try to do something wonderful … we had to localise it and obviously theirs didn't deal with tolling, all of our primary schemes or our first wave of schemes were toll schemes. So we had to adapt them ... so we took the UK model and it worked as it should have worked (P3, 2016)

Interestingly lesson drawing from UK road projects, was justified by the public sector interviewees, but no private sector interviewees spoke of learning from UK road projects.

Learning from Courts Projects

Interviewees noted learning from Northern Ireland Courts Projects. Accordingly the public sector interviewee who has worked on stage 2 and 3 Justice projects said:

> I think also we went up and had a lot of discussions with the people … in the North then from Laganside. We went for a couple of visits … there and talked to their staff … before we started (P7, 2016)

Learning has also taken place from English Courts Projects:

> I think we had a couple of people … [who] talked to them … the judges went to the Manchester Courts …fact finding trip (P7, 2016)

Learning took place from Northern Ireland Courts Projects, particularly by the public sector. However, no private sector interviewee spoke of learning from UK courts projects.

Summary 6.2.2.1 Learning from UK PFIs

Overall, there is consensus that learning from the UK has taken place and continues to take place. Learning from the UK by the public and private sectors seems to be strongest from Education and Health projects and also from UK financing of projects. The analysis also indicates that public sector interviewees are more likely to mention learning from Road projects and from Courts projects than those from the private sector. Perhaps a reason for the strength of public sector learning in Road projects is that these were some of the earliest PPPs and while learning has taken place from the UK, it has been adapted for the Irish market, albeit at a slow pace. This is analysed further in *6.2.2.2 Learning from Irish PPPs.* Another possibility is that policy learning has refined over time. Initially when policies are transplanted there is mimicry, but as the policymakers and implementers become more experienced and confident, mimicry becomes less prevalent. This would appear to be the case with road projects where learning initially took place, but the policy then was adapted for the Irish market. This also ties in with *6.2.2.2 Learning from Irish PPPs* as this theme finds that as projects moved through the various PPP stages 1 – 3, increasingly stage 3 projects are learning from Irish stage 1 and 2 projects. Therefore it appears that Ireland relied on learning from the UK initially, but more recently has started to draw lesson from indigenous projects.

The literature suggests that reviewing previous projects increases the capacity of PPPs. The research confirms that learning from UK projects that has taken place is strong, therefore increasing PPP capacity and contributing to the success of PPPs in Ireland.

6.2.2.2 Learning from Irish PPPs

The literature suggests that learning from previous PPPs has been a key factor for successful PPP programme implementation (Matos-Castaño et al., 2014). When the study was extended in 2016, interviewees spoke about learning from stages 1, 2 and 3 PPPs. The analysis indicates that Education project interviewees, in particular the stage 3 interviewees, and Justice project interviewees, in particular stage 3 interviewees, spoke most about learning from the pilot projects, a stage 1 project. Primary Care interviewees, a stage 3 project, spoke most about learning from the cancelled National Plan for Radiation Oncology project, a stage 2 project. Thus Education and Justice interviewees learnt from a stage 1 project and Primary Care learnt from a stage 2 project. Transport projects learnt from stage 1 projects but were slow to implement learnings.

The NDFA and the Comptroller and Auditor General (C&AG) consider learning from stage 1 and 2 projects to be very important learning experiences. For example, Stephen Burgess, then Head of Procurement and Project Management at the NDFA stated in the Dáil:

"We have learned lessons from schools bundle 1, which we have carried through to our most recent contracts" (Dáil Éireann, 2012b, p.29). Brian Murphy, then Director of the NDFA, also spoke about the importance of these projects as a learning experience:

> It is important to remember that the project was called a pilot schools project for a reason. It was a path-finder project, a trailblazing project. It was effectively the first PPP in Ireland and it was done at a time when there was not a body of understanding, expertise, procedures or policy developed. We have moved on a good deal since then … Within the NDFA we have developed a huge body of policy and procedure supported by the Department's guidelines, which have evolved over the years and are based on lessons learned not only locally but internationally (Dáil Éireann, 2012b, p.11)

The C&AG, Seamus McCarthy, also spoke in the Dáil of learning from early transport projects, in particular demand risk, when he said: "there was a learning point there and subsequent projects have not seen that risk being left with the State party" (Dáil Éireann, 2016, p.44).

When the study was extended in 2016, there was consensus from interviewees that the pilot schools project was very much a path-finder project for the public sector. The senior public sector interviewee involved in PPP decision-making spoke about learning from this project and that there:

> were huge changes made after that because it was the first one we did and we didn't know an awful lot about it and we learned a lot from it (P8, 2016)

Learning from the Maritime College and Cork School of Music has influenced the Grangegorman project, as discussed by the public sector interviewee involved:

> there was some learnings from previous accommodation projects such as The Maritime College and the Cork School of Music … things like how ICT/AV were treated (P5, 2016)

Fact-finding missions to these early PPPs, such as the Maritime College and the Cork School of Music, were undertaken by a public sector interviewee involved in a third level stage 2 cancelled PPP:

> We … went to the Cork School of Music as a group of estates managers … we were shown around … a few technicians went down to Cork to have a look at the Maritime College (P21, 2016)

Information sharing also took place between those involved in the Cork School of Music and pilot projects, as a public sector interviewee involved in the Criminal Courts of Justice PPP and stage 3 Justice PPPs discussed:

> We … talked to people about them … just to get their experience … the PPP world is quite small here (P7, 2016)

A public sector interviewee who is working on a stage 3 PPP project spoke of how the NDFA was eager for the Grangegorman project to draw lessons from these stage 1 and 2 projects:

> from early on the NDFA were steering us in that direction (P5, 2016)

Learning has also taken place from early transport projects, in particular the Limerick Tunnel and the M3, both stage 1 PPPs, but it has been slow to be implemented. This ties back to *6.2.2.1 Learning from UK PFIs* which indicated that while the public sector learnt from the UK, in terms of toll schemes and traffic guarantees, it was slow to adapt it for the Irish context in stage 1 and 2 Irish projects. This relates back to comments made by a private sector interviewee involved in stage 2 and 3 PPP projects and currently involved in a Justice project. This interviewee discussed the West Link and East Link projects. Although they were not PPPs, they did involve a traffic guarantee. The interviewee explains that there were a lot of problems with this scheme, yet the early transport PPP projects continued to use it:

> there's some very interesting studies around demand-based transportation infrastructure, some of them being wildly profitable for the private sector and some have been wildly unsuccessful for the private sector and I think the history of it in Ireland is mixed … the West Link and the East Link [were] goldmines for the developers … nothing in the contracts to properly restrict the upside and then you go to the wider road network you have a financial disaster for bidding consortia mainly because it's very difficult to predict traffic. Why somebody who builds a road or why somebody who finances a road should be better able to predict traffic is bizarre and therefore there's limited appetite these days for green field demand risk (P11, 2016)

The public sector interviewee with more than 15 years' experience of working on Transport projects admitted that this type of scheme was a mistake:

> we didn't put in a threshold …we've learned over the years (P3, 2016)

This interviewee seemed very concerned about the language used and said that they learnt that certain phrases can be inflammatory and they do not use them now: don't use the word guarantee, don't use the word bonus (P3, 2016)

However, private sector interviewees spoke about learning very little from stage 1 and 2 projects. A private sector interviewee involved in a consortium with experience of education projects suggested that the pilot project was not a good project to learn from:

> I don't think it's a good benchmark to start with … I would say schools bundle one is probably the best example to start with (P24, 2016)

This interviewee emphasised how the schools bundle one is a better example and is currently being used as a learning project. Market testing has now been completed on this bundle and that it is: "certainly a path-finder for everybody else" (P24, 2016) involved in subsequent schools bundles who will have to undertake a similar process soon.

A PPP consultant who has worked on stage 1 and 2 PPP projects in Ireland beginning in 2006 went even further to suggest that there is very little to be learnt from "poor projects" (P6, 2016), suggesting that these stage 1 and 2 projects were not successful projects.

Learning has also taken place from the cancelled National Plan for Radiation Oncology project (a stage 2 project). The public sector interviewee involved in the Primary Care projects also worked on this cancelled project. The interviewee discussed whether learning had taken place from the cancelled project:

> [there were] lessons that we learned from that process to bring forward into this one … there was [a] … huge breadth of experience that we had gained ourselves (P22, 2016)

This is discussed further under heading *6.2.2.3 Public sector learning*.

Summary 6.2.2.2 Learning from Irish PPPs

The literature suggests that learning from previous PPPs has been a key factor for successful PPP programme implementation. However, learning in Transport projects has been patchy.

The research also indicates that learning has taken place in Education, Justice and Primary Care projects from stage 1 and 2 projects. This ties back to *6.2.2.1 Learning from UK PFIs* where it was found that earlier stage 1 projects relied on learning from UK PFI projects but later stage 3 projects now rely on learning from indigenous stage 2 and 3 projects. This suggests that when policies are transplanted there is mimicry, but as the policymakers and

implementers become more experienced and confident, mimicry becomes less prevalent. The research therefore confirms that learning from Irish PPPs is varied and its contribution to increasing PPP capacity mixed.

6.2.2.3 Public sector learning

The literature suggests the PPP capacity required from government goes beyond just technical skills (Jooste et al., 2009) to building the necessary capabilities within the public sector such as "in-house PPP knowledge, training workshops, cross-project knowledge and guidance notes" (Matos-Castaño et al., 2012, p.7). These capabilities can be scaled up to ensure new roles within the public sector with specific expertise in PPP are developed (Matos-Castaño et al., 2014) to manage PPPs effectively (Willens et al., 2011).

This expertise has been developed by the NDFA, as explained in the Dáil by Brian Murphy, then Director of the NDFA:

> One only has to look at the enormous body of guidance which has been developed and issued by the Department of Finance and now by the Department of Public Expenditure and Reform. That reflects the evolution of the market and best practice in the market. The policies and procedures that we apply internally reflect what we have learned from delivering projects. When we come to the next project we try to incorporate best practice and improve on what we believe is already a very robust and rigourous process (Dáil Éireann, 2012b, p. 12)

During the extended study, this was confirmed by an interviewee who formerly worked with the NDFA who said that the NDFA "learned an awful lot" (P4, 2016).

However, governments departments have had to build up PPP expertise, as acknowledged by a senior public sector interviewee involved in PPP decision-making who said that there has been a steep learning curve:

> each of the Departments … have their PPP unit in place…. So it's a steep learning curve and that's why it's kind of a bit daunting for Departments who haven't been involved, but for the ones who have … I think they're happy (P8, 2016)

During the extended study, the interviewees spoke about learning in the public sector, in particular in the Office of Public Works (OPW), the Health Service Executive (HSE), the National Development Finance Agency (NDFA), and the Department of Public Expenditure and Reform (DPER). This material is now analysed in detail. The order of analysis chosen is

based on the number of text blocks accumulated under each heading during the data analysis stage. Appendix Q outlines the order of analysis of *6.2.2.3 Public sector learning*. The last text block "PPP steering committee" is not analysed specifically but contributes to the other analysis when appropriate.

OPW learning

The OPW has learnt from the experience of the stage 2 Criminal Courts of Justice PPP, which in turn drew lessons from the stages 1 pilot schools project (Mazars, 2012). Lessons learning has taken place with regard to the form of design and maintenance.

In the extended study, a public sector interviewee involved in Justice projects said that the:

> OPW in particular learned from their involvement in the CCJ (P2, 2016)

This was also confirmed by a public sector representative from the OPW with experience of stage 2 and 3 Justice projects. This interviewee explained that they have a lot of experience and learning from managing design and maintenance of:

> 2,400 buildings, some of them would be monuments … historical buildings to brand new buildings (P15, 2016)

According to this interviewee this has been invaluable in dealing with PPPs:

> we knew then where the pitfalls were and we closed them off (P15, 2016)

This experience gained in the CCJ has been particularly invaluable in stage 3 Justice projects. The interviewee explained how the OPW learned from the CCJ as they:

> produced a … generic courthouse design guide … had the wealth of knowledge built up and … used it (P15, 2016)

The OPW learnt from the issues with the design of the CCJ, and lessons are now applied to stage 3 PPPs. This was explained by a public sector interviewee working in the OPW stage 2 and 3 Justice projects who said that the design of the CCJ was not owned by the public sector:

> the Courts Service realised they'd been caught badly with that … after a three year process [they] didn't even own the drawings …we're not getting caught like that again (P15, 2016)

The OPW also learnt about maintenance costs from the CCJ and this interviewee explained that the OPW will be scaling back on the cost of maintenance in the new Courts programme (P15, 2016).

It should be noted that there appears to be a clash between the NDFA and the OPW. In explaining how the OPW manages politicians, the public sector representative from the OPW provided an insight into its attitude towards the NDFA:

> the NDFA would lack political insight …Whereas we've learned … how politics works, when you're in OPW … you're dealing with Ministers all the time so you know … their brain and you can almost … second guess them, whereas they [NDFA] would [say] … no this is what's happening and … dictate and that never goes down well with a political person. … if you go in and tell them… the first reaction you get back is, you're trying to force me into doing that, I'm the Minister, I want to make the decision (P15, 2016)

This may explain the attitude of public servants in the OPW towards PPP and the private sector, an attitude that is not always appreciated by the NDFA. The interviewee from the OPW told an anecdote of how, in their opinion, the developers in the CCJ had designed out all the risk by future proofing airconditioning units and lifts by unnecessarily including extra ones in the design. The interviewee, who has vast experience in design and construction noticed this, informed the NDFA but was told: "you're rocking the boat" and it remained in the design (P15, 2016).

The conflict between the OPW and the NDFA draws on the point made earlier that there is a sense that the NDFA believes it is in charge of government departments. If this is correct, it ties back to *5.3.1 Lead Institutional Support* which discusses the NDFA as being a market driver and how it is trying to manage the public and private sectors. On the one hand the NDFA is trying to legitimise PPP by encouraging the policy, but on the other hand it is managing government departments and thus stifling capacity.

<u>HSE learning</u>

The HSE has learnt from the postponed stage 2 National Plan for Radiation Oncology project and from the private sector. The public sector representative from the HSE spoke about learning from the postponed project which has been useful in the Primary Care projects:

> many of the things that we learnt from that project we've been able to adopt into this project (P22, 2016)

Specifically, the interviewee said the HSE team:

> learned a huge amount ourselves so it was very important that we didn't just start again with a blank sheet of paper … we used everything that we had learnt to date … learning was brought into this project (P22, 2016)

The interviewee gave an example of learning that was brought forward into the Primary Care project:

> one of the key things that we did in the radiation oncology facility was bringing all the different clinical and operational groups together to come up with a standard design, a standard format and that's important in terms of the PPP process … things like having the same rooms, the same FM services … we brought all the different clinical and operational staff together to agree on … a standard format for OT rooms, physiotherapy rooms, GP rooms … we certainly had lessons that we learned from that process to bring forward into this one (P22, 2016)

There is also learning in the HSE from the Primary Care projects and the interviewee said:

> we would be doing a post-project review mostly to make sure that the next project benefits … before we sit down and start to plan the next one in detail we will look at what we did on this project and what we have learnt …what mistakes we made, what we could do differently this time … it will certainly influence how we develop the next project … to all intents and purposes you could say there is an expertise in here (P22, 2016)

The HSE has also drawn lessons from the private sector. For example, the private sector interviewee who was successful in winning Primary Care projects acknowledged that the HSE is open to suggestions and wishes to learn from the private sector:

> it was open to hear how other people are doing it and to bring in ideas on improvements (P18, 2016)

Overall it appears that the HSE is open to learning from both the public sector and private sector. Apart from the cancelled stage 2 project the HSE is only involved in stage 3 projects. Perhaps because it is late to PPP compared with other sectors that have more of a culture of sharing learning. This suggests that a pathway to learning has evolved as PPP has matured.

<u>NDFA learning</u>

The literature suggests that the PPP unit should establish a national PPP training programme to build expertise within government departments (UNECE, 2008) in the form of

"on-the-job training" as opposed to theoretical classroom lecturing (UNECE, 2008, p. 27). In Ireland, learning is ongoing in PPP and is led by the NDFA, as discussed by Brian Murphy, then Director of NDFA:

> In regard to each project we do, the procurement people and finance people sit down together and do a thorough look-back audit, an evaluation of how the process went, what we could have done better and what we did well, and our policies and procedures are updated continuously to reflect best practice (Dáil Éireann, 2012b, p.12)

Learning also takes place from completing post-project reviews. The importance of carrying out post-project reviews by government departments was emphasised by the Comptroller and Auditor General, Seamus McCarthy who said they allow others to see:

> the value that was expected was actually achieved and where the value came from. How is it that the thing was able to deliver value? If there is some kind of innovation in the development of building schools, why would the State sector not learn from that point as well where it is doing direct build? Why would it not incorporate the same money-saving technology and design? (Dáil Éireann, 2016, p.44)

The extended study found that learning from past projects has enabled the NDFA to build up experience and expertise. This learning was shown at the tender assessment stage of a project discussed by a public sector interviewee working on Justice:

> the technical people … the architecture people … they talked all the time among one another about remember that was tried in such and such and that didn't work (P2, 2016)

The NDFA sits on the PPP steering committees, as explained by the senior public sector interviewee involved in PPP decision making:

> the NDFA obviously are the common factor with all of them [PPPs], and even with the roads the NDFA are the financial advisers on the roads, so again they are in all of the PPPs, so what they learn on one they can apply on the other (P8, 2016)

The public sector shares information at the PPP steering committee level, but the private sector only learns from projects that it has been involved in. However, the NDFA is across all projects so the private sector can learn from the NDFA's involvement in other PPP projects. This point was made by a private sector interviewee involved in schools bundles 1

and 2 and a successful bidder on the Grangegorman project. This interviewee speculated that the UK does not have an equivalent of the NDFA and so information is not as readily shared:

> we have the NDFA … who … is managing other PPPs, we only see the people who are involved in schools bundle one and two, they [NDFA] are also managing three and four and the pilot bundles … there's a level of expertise being developed in that very specialist area of PPPs whereas … each [government] department in the UK runs their own PPP (P12, 2016)

This was confirmed by a private sector interviewee who works for a successful bidder in the Primary Care project. This interviewee explained that they have access to advisers in the NDFA:

> the knowledge that we build and the fact that they do have access to advisers as well with knowledge by doing projects … it's a really good model (P18, 2016)

The extended study also found that in Ireland, training is indeed more on the job rather than classroom-based, as confirmed by a public sector interviewee who has worked on stage 2 and 3 Justice projects:

> there is the odd seminar that's run domestically now and then … I think most people working in it it's learn on the job (P7, 2016)

With regard to post-project reviews and learning from them, the extended study found that they are not published, apart from the one disseminated by the Department of Justice (Mazars, 2012). The transparency surrounding the publication of such reviews is discussed in *5.3.2.1 Transparency*.

DPER learning

Learning has also taken place in the Department of Public Expenditure and Reform (DPER), a government department which manages public spending. The senior public sector interviewee involved in PPP decision-making said that learning in DPER is ongoing:

> if there are lessons to learn, we learn them and we apply them to the next ones (P8, 2016)

This interviewee explained how PPP has evolved since 2006 and their intention is to:

> look at the whole thing afresh, update it for all the things that have changed but also for all the lessons we've learned in the meantime because we've issued a lot of clarifications since the guidelines were out where people think they mean one thing and we say no, that's not what they mean and we clarify … we're finalising a review of [the] public sector benchmark, we did a review of that looking at some projects and lessons learned again so we can take on board the lessons learned from that and the recommendations and we can build that into the guidance now as well (P8, 2016)

DPER chairs a monthly PPP steering committee attended by all government departments involved in PPP. The purpose of this steering committee is to learn from other departments:

> we talk about the issues that are coming up (P8, 2016)

This is particularly beneficial for departments that have not been involved in PPP before:

> the Department of the Environment have just joined the group because they're going to do social housing by PPP so they are able to learn and they make contacts with the others and they can talk bilaterally to the other units and find out what do they need to know (P8, 2016)

Summary 6.2.2.3 Public sector learning

Overall the research indicates that learning within the public sector is strong, with learning taking place between departments and the PPP steering committee. The HSE is open to learning from both the public sector and private sector. Perhaps because it is late to PPP compared with others it has more of a culture of sharing learning. This suggests that a pathway to learning has evolved in Ireland as PPP has matured.

The OPW has learnt from the experience of the stage 2 Criminal Courts of Justice PPP, which in turn draw lesson from the stages 1 pilot schools project (Mazars, 2012). However, there appears to be conflict between the OPW and the NDFA and there is a sense that the NDFA believes it is in charge of government departments. If this is correct, it ties back to *5.3.1 Lead Institutional Support* which discusses the NDFA as being a market driver and how it is trying to manage the public and private sectors. On the one hand the NDFA is trying to legitimise PPP by encouraging the policy but on the other hand it is managing government departments and thus stifling capacity.

The NDFA has not established a national PPP training programme to build expertise within government departments as recommended by the UNECE (2008). Instead the public sector shares information at the PPP steering committee level. There is a sense that the NDFA

believes that it is in charge of the PPP activities of government departments and wants to keep it this way. This confirms the point made earlier in the section on the OPW. The NDFA acts as a common link between the public and private sectors and thus shares its learning with the private sector. This suggests that Ireland has developed a unique national pathway to policy learning that has evolved organically. Overall the research indicates that learning within the public sector is strong which in turn increases its contribution to PPP capacity.

6.2.2.4 Learning from PPP projects in other countries (apart from the UK) and from other entities

Ireland is a member of the European PPP Expertise Centre (EPEC). This is an initiative involving the European Investment Bank (EIB), the European Commission and European Union member states and candidate countries. EPEC aims to strengthen the capacity of its public sector members to enter into PPP transactions by sharing members' expertise and experience[17]. The NDFA is a member of EPEC and it recognises the importance of learning from other countries, experiences of PPP. Brian Murphy, then Director of the NDFA, said:

> We also liaise extensively with our opposite numbers overseas in other markets and understand exactly what they are doing. We try to incorporate best practice in so far as it suits the market because there are different nuances in different markets (Dáil Éireann, 2012b, p.12)

Despite commenting on the role of the NDFA, EPEC has never carried out a review of the NDFA and its institutional framework, as it has done with other member countries. During the extended study, none of the interviewees mentioned EPEC, suggesting that it is of little importance to the public and private sectors involved in PPP in Ireland. It appears that the NDFA also does not consider EPEC to be a significant contributor to PPP in Ireland. EPEC, meanwhile, seems to have a positive view of the NDFA. In fact, in EPEC's 2014 review of PPP units the NDFA is commented on as an agency with "a clear focus on delivering specified outputs within a framework of accountability to ministers or parliament, allowing the ministry or department to focus on policy issues" (EPEC, 2014, p.64).

During the extended study, public sector interviewees had very little to say about learning from other countries apart from the UK, suggesting that they rely on the NDFA to learn on their behalf. The exception to this was a public sector interviewee involved in Justice projects who had worked in other countries (P15, 2016).

[17] http://www.eib.org/epec/about/index.htm

Private sector interviewees had more to say about learning from other countries but this related to issues over which they have no control. For example, the private sector interviewee who was successful in winning the Primary Care projects spoke about learning from Canada and explained how they are more transparent in their PPP dealings:

> in Canada … they're doing these value reports at the end of the project … they demonstrate the value and there's more information out there for people to see why this was the best way forward and I think it's more widely acceptable … I think there has to be a way to publish more (P18, 2016)

This interviewee has worked in Canada and explained that the public is more trusting of decisions made. For example, planning is not as big an issue in PPP as it is in Ireland:

> they don't need planning, they just accept that planning would come through … planning for them is not a key risk at all because of the mindset of people, they don't think that somebody would challenge it at all whereas here you always think … there is an oddball nearby … that can delay you nine months and then derails the whole project (P18, 2016)

A former private sector interviewee now working in the public sector with experience of stage 2 and 3 PPP projects warned about how Ireland should heed the experiences of Portugal in overextending itself:

> Portugal ended up in a problem where they'd too many obligations, they'd too many commitments to PPPs relative to their size … Ireland does need to be careful of that (P14, 2016)

Overall public sector learning from other countries apart from the UK is weak, with no interviewee from that sector mentioning learning from EPEC. This is despite the fact that the NDFA sits on the Irish PPP steering committee and interviewees who are members of the steering committee were interviewed for this study. Also EPEC has never reviewed the NDFA as it has done so with other member countries PPP unit. It is reasonable to conclude that the NDFA is seen as a leader of PPP units and does not consider itself a follower of other PPP units. This suggests that policy transfer is taking place in the opposite direction, the NDFA is now one of the examples that other countries are following and policy transfer is now taking place from Ireland to other countries. This suggests that Ireland has entered a maturity phase with PPP.

Those in the private sector who have worked on PPP in other countries spoke of learning but this concerns experiences which are beyond immediate implementation. The

research confirms that learning from other countries and European entities is poor and its contribution to increasing PPP capacity is weak.

6.2.2.5 Private sector learning

During the extended study, interviewees spoke about private sector learning in terms of what the private sector has learnt about PPP. For example, a private sector interviewee who failed to win a bid on Primary Care projects said that they teamed up with another company that had PFI experience:

> what helped was one of our partners, [redacted] … had experience in the UK particularly in Scotland… in PPP… they would have that experience to bear … they were able to advise us (P16, 2016)

Another private sector interviewee involved in a consortium discussed that as their company was experienced in education, they would stick to bidding on these types of projects:

> we had a winning formula which we hope will continue again … future projects like social housing wouldn't be …our expertise … education certainly was our expertise (P24, 2016)

Another private sector interviewee involved in PPP since the pilot projects spoke about learning from the experience of bidding on a project where:

> if I did something wrong I put three sets of designers and three contractors together rather than just two (P19, 2016)

Learning in the private sector is concentrated on lesson learning from their past experience of PPP, which is seen as important and also through the formation of consortia so that they can team up with experienced PPP participants. The private sector also learns from the NDFA, as discussed in *6.2.2.3 Public sector learning*. Overall, private sector learning is strong, which in turn contributes to the building of capacity in PPP.

Summary 6.2.2 Policy learning

The literature suggest suggests that capacity to manage PPPs is enhanced by the installation of expertise and systems for learning and knowledge diffusion (Verhoest et al., 2015), all of which are key to PPP success (Matos-Castaño et al., 2014). The findings of the pilot study discussed in chapter 4 were that, although the interdepartmental group tasked with exploring the introduction of PPP in 1998 endeavoured to learn from UK PFI experiences, it was unclear whether this was effectively communicated to public sector managers (Sheppard and Beck, 2016).

When the study was extended in 2016, it was found that, as outlined in *6.2.2.1 Learning from UK PFIs*, learning from the UK has taken place and continues to take place. Learning from UK road projects was particularly strong, the reason being that these were some of the earliest PPPs. While learning has taken place from the UK, it has been adapted for the Irish market, albeit at a slow pace. Another possibility is that policy learning is refined over time. Initially when policies are transplanted policy there is mimicry, but as the policymakers and implementers become more experienced and confident mimicry becomes less prevalent. This would appear to be the case with road projects where there was isomorphism but the policy has been adapted for the Irish market. It appears that Ireland relied on learning from the UK initially but more recently is relying on learning from indigenous projects. The research confirms that learning from UK projects that has taken place is strong, and this has increased PPP capacity and contributing to the success of PPPs in Ireland.

The research also indicates that, as outlined in *6.2.2.2 Learning from Irish PPPs*, as projects have moved through the various PPP stages 1 – 3, increasingly stage 3 projects are drawing lessons from stage 1 and 2. This ties back to *6.2.2.1 Learning from UK PFIs* which confirmed that when policies are transplanted, there is mimicry but as the policymakers and implementers become more experienced and confident, mimicry becomes less widespread. However, the research confirms that overall learning from Irish PPPs is varied and its contribution to increasing PPP capacity mixed.

In *6.2.2.3 Public sector learning* the research indicates that learning within the public sector is strong, with learning taking place between departments and the PPP steering committee. The HSE is open to learning from both the public sector and private sector, perhaps because it is late to PPP there is a culture of sharing learning between the parties involved. This suggests that a pathway to learning has evolved in Ireland as PPP has matured.

The OPW has learnt from the experience of the stage 2 Criminal Courts of Justice PPP, which in turn learnt from the stages 1 pilot schools project. However, there appears to be conflict between the OPW and the NDFA and there is a sense that the NDFA believes it is in charge of government departments. If this is correct, it ties back to *5.3.1 Lead Institutional Support* which identifies the NDFA as being a market driver and how it is trying to manage the public and private sectors. On the one hand the NDFA is trying to legitimise PPP by encouraging the policy, but on the other hand it is managing government departments and thus stifling capacity.

The NDFA has not established a national PPP training programme to build expertise within government departments as suggested by the UNECE (2008). Instead the public sector shares information at the PPP steering committee level. As alluded to earlier, there is a sense that the NDFA believes that it is in charge of government departments and wants to keep it this way. The NDFA acts as a common link between the public and private sectors and thus shares its learning with the private sector. This suggests that Ireland has developed a unique national pathway to policy learning that has evolved organically. Overall, the research confirms that learning within the public sector is strong which in turn increases its contribution to PPP capacity.

In *6.2.2.4 Learning from PPP projects in other countries (apart from the UK) and from other entities* it was confirmed that public sector learning from other countries apart from the UK is weak, with no interviewee mentioning learning from EPEC. Also EPEC has never reviewed the NDFA as it has done with the PPP units of other member countries. It appears that the NDFA does not consider EPEC to be a significant contributor to PPP in Ireland. Those in the private sector who have worked on PPP in other countries spoke of learning but having no power to implement it. The research confirms that learning from other countries and other entities is poor and its contribution to increasing PPP capacity is weak.

The 2014 EPEC review of PPP units said the NDFA had "a clear focus on delivering specified outputs within a framework of accountability to ministers or parliament, allowing the ministry or department to focus on policy issues" (EPEC, 2014, p.64). It is arguable that the NDFA is seen as a leader of PPP units and is not considered to a follower of other PPP units. This suggests that while policy transfer initially took place between the UK and Ireland, it has now evolved to a situation where Irish PPP policy is being transferred to other countries. This suggests that Ireland has entered a maturity phase with PPP.

In *6.2.2.5 Private sector learning* it was confirmed that private sector learning is concentrated on learning from their past experience of PPP, which is strong, and also through the formation of consortia so that small private sector interviewees can team up with experienced PPP participants. However, in *6.2.1 Methods to encourage market demand,* the scale of the Irish market, an uncertain pipeline of projects and contractor capacity were considered impediments to attracting private sector interest. If this is considered in the context of the potential to form consortia in which learning can take place, there are serious concerns that learning in the private sector, certainly for smaller contractors, will not take place. The private sector also learns from the NDFA, as discussed in *6.2.2.3 Public sector learning*.

Overall, private sector learning is strong, which in turn contributes to the building of capacity in PPP.

The contribution of policy learning to building the capacity of PPP is mixed. *6.2.2.1 Learning from UK PFIs*, *6.2.2.3 Public sector learning* and *6.2.2.5 Private sector learning* all exhibit strong policy learning. *6.2.2.2 Learning from Irish PPPs* is mixed and *6.2.2.4 Learning from PPP projects in other countries (apart from the UK) and from other entities* is weak.

6.2.3: Public sector expertise

The literature suggests that PPP does not simply substitute private sector capacity for public sector capacity but rather requires new public sector capacity to be developed (Jooste, 2010). Once this new capacity is developed, this creates an environment where both the public and private sectors have confidence to invest and cooperate together (Matos-Castaño, 2011) and leads to a sustainable environment for PPP to flourish.

Jooste et al. (2009) maintain that constraints in public sector capacity may be overcome by developing the resources and specialised expertise to develop, manage and operate PPP infrastructure. As stated in *6.2.2.3 Public sector learning* this can be achieved through public sector training programmes and workshops, communicating cross-project knowledge, and producing guidance notes (Matos-Castaño et al., 2012). Jooste (2010) emphasises the importance of communicating lessons learnt on previous projects, developing pilot projects and understanding private finance. Other authors call for PPP advocacy to be built up in the public sector through the establishment of PPP units within government departments or as new agencies (Dutz et al., 2006; Petersen, 2011).

The findings of the pilot study outlined in chapter 4 were that there was evidence of PPP-specific training and guidance to public sector staff (Sheppard and Beck, 2016). The need for public sector capacity was acknowledged at the beginning of the PPP process in Ireland through the then Department of the Environment, Heritage and Local Government putting in place a PPP Training Framework which set out the nature of the training required for the public and private sectors (Department of the Environment, Heritage and Local Government, 2003). More recently, guidance material has been published by the Department of Public Expenditure and Reform and this is discussed under *5.3.2 Political support*. However, when the study was extended in 2016, it was found that public sector capacity in relation to PPP is patchy and mixed across government departments and state authorities.

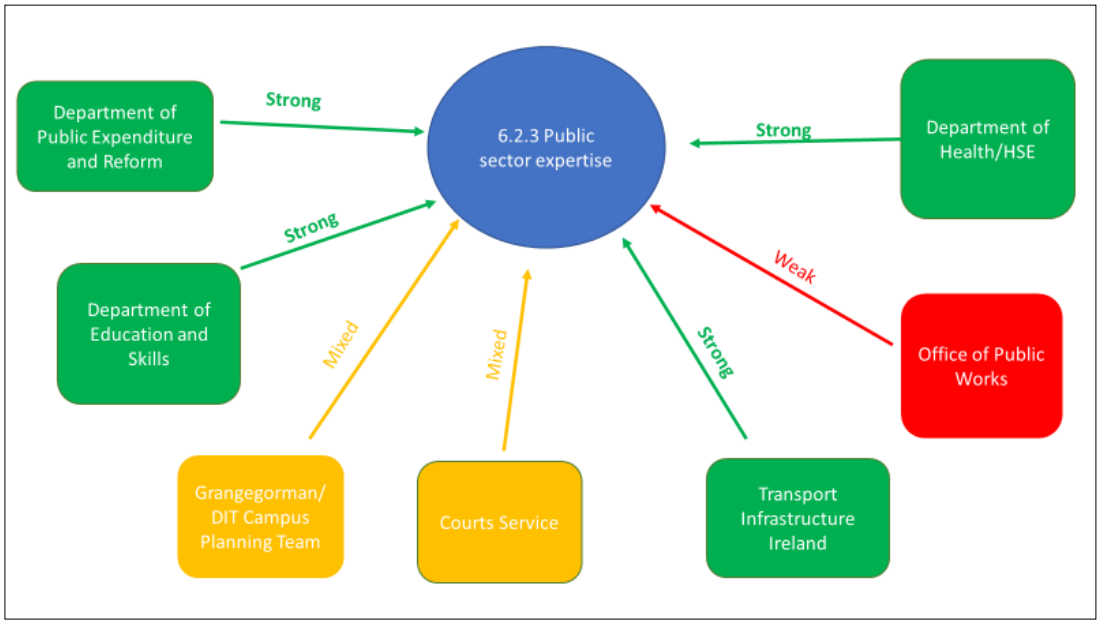
The extended study conducted in 2016 examines the knowledge of PPP and training given in government departments and agencies to establish if public sector capacity has been built up and to gauge the strength of their contribution to creating capacity in PPP procurement and management. A central PPP unit was set up in the Department of Public Expenditure and Reform and individual PPP units were set up in some of the government departments, so it is logical that this section would examine the knowledge of PPP and training given by government departments. During the extended study, the interviewees spoke about the Department of Public Expenditure and Reform (DPER), the Department of Education and Science (DoES) (including Grangegorman), the Courts Service, Transport Infrastructure Ireland (TII), the Office of Public Works (OPW), the Department of Health and the Health Service Executive (HSE) . The order of analysis chosen is again based on the number of text blocks accumulated under each heading during the data analysis stage and is outlined in Table 6.3. The number of text blocks does not necessarily reflect the importance of the theme. The last two text blocks "Comptroller and Auditor General" and "Other comments" are not analysed specifically but contribute to the other analysis when appropriate.

Table 6.3: Order of analysis of 6.2.3 Public sector expertise

6.2.3 Public sector expertise	**Number of text blocks**
DPER	221
DoES (including Grangegorman)	88
Courts Service	55
TII	48
OPW	41
Department of Health and the HSE	38
Comptroller and Auditor General	22
Other comments	224
Total	**737**

This theme is now analysed further along these lines with enquiries into public sector expertise in the Department of Public Expenditure and Reform (DPER), Department of Education and Skills (DoES) which includes Grangegorman, Courts Service, Transport Infrastructure Ireland (TII), the Office of Public Works (OPW), the Department of Health and the Health Service Executive (HSE) and the Comptroller and Auditor General. Figure 6.3 outlines the different degrees of strength that each government department or state authority has in growing public sector expertise in PPP, which are discussed in the following sections:

Figure 6.3: Public sector expertise



Department of Public Expenditure and Reform (DPER)

DPER was established in 2011 to reduce public spending to more sustainable levels and to reform and improve public services[18]. The central PPP unit is situated in DPER and facilitates the PPP process centrally, including developing the PPP policy framework and providing central guidance to Departments and other State authorities. The central PPP unit also chairs a high level Steering Committee which oversees PPP projects announced by government[19].

During the extended study the senior public sector interviewee involved in PPP decision-making explained the role of the steering committee as being an overseer:

> we don't want all these commitments building up without anyone really being aware of it (P8, 2016)

DPER is highly influential in deciding projects that are suitable for consideration for PPP. A public sector interviewee who previously worked in the private sector explained that if DPER does not think that PPP is a "good idea", then Departments are not going to go against it (P14, 2016). This was also spoken about by a public sector interviewee involved in Justice projects (P15, 2016), by an interviewee who formerly worked with the NDFA (P4, 2016) and also by a public sector interviewee involved in Justice projects (P7, 2016).

[18] http://www.per.gov.ie/en/our-ministers/
[19] http://ppp.gov.ie/about-the-central-unit/

However, one of the public sector interviewees involved in Justice projects and who sits on the steering committee was critical of DPER, its knowledge of PPP and the way it decides which projects are suitable for PPP and which are not:

> there's a lack of understanding of PPP at that level and the implications of budget decisions…I've got the impression from being at some meetings where… all the sectors have been present…there may be lists of projects in total given in but it's not identified which are PPP and which are traditional build and maybe DPER at political level are picking off a list, I will do that by PPP and that by PPP (P7, 2016)

However, the senior public sector interviewee involved in PPP decision-making explained that work is carried out behind the scenes to establish which projects are suitable:

> we would have been working with the Departments behind the scenes… in terms of what options there were and what kind of projects different Departments would have that might form part of a new programme so a lot of preliminary thinking would have been done and certainly checking that there are kind of projects that are PPP-able… in some cases we knew exactly what the projects were, in other cases we didn't, we had a good idea that it was, there were a few different things that could be PPP-able and we had a good idea what it might be…So yes I think we're broadly happy with PPPs as a tool that's available to us, a minority procurement tool though you know…It has its place and it shouldn't be too big in the overall procurement range…But for where it is yeah we're happy with it (P8, 2016)

The importance of establishing a PPP unit within departments was emphasised by the same interviewee:

> So it's a steep learning curve and that's why it's kind of a bit daunting for Departments who haven't been involved [in PPP], but for the ones who have… I think they're happy…once … you've got your PPP unit in place and people know it is what they are doing I think then they are open [to] do more (P8, 2016)

However, despite the establishment of PPP units in departments, there is still a belief that there is a lack of PPP champions as described by a public sector interviewee who formerly worked in the private sector:

> [there are] little bits of negativity around the place…more importantly [a] lack of champions amongst the line departments (P14, 2016)

Overall DPER is hugely influential in PPP decision-making and convenes regular PPP Steering Committee meetings. Despite criticism by one public sector interviewee, DPER appears to be knowledgeable of PPPs which in turn strengthens PPP capacity. The existence of a PPP Steering Committee suggests that PPP advocacy has been built up in DPER and that the department's contribution to building capacity in PPP is strong.

The Department of Education and Skills (DoES)

The DoES is the sanctioning authority (P5, 2016) for schools and third level colleges. A lot of PPP experience has been built up in the DoES, as explained by a former private sector interviewee now working in the public sector:

> The Department of Education had a couple of champions in the … early to mid-2000s who … drove … the whole schools programmes (P14, 2016)

The DoES had a PPP unit which was closed down during the financial crisis (P21, 2016). It has since opened a Planning and Business Unit which incorporates a Third Level Building and PPP Section[20]. The PPP unit is responsible for the delivery of the Department's PPP programme with the NDFA being a procuring agency (P24, 2016).

The perception among interviewees is that the DoES has expertise in PPP, as explained in an email from a public sector interviewee involved in Environment projects:

> The Department of Education have good experience and users are benefiting from the services (P9, 2016)

A private sector interviewee involved in a consortium also commented on the PPP expertise within the DoES to the extent that it could probably build a PPP template for schools (P24, 2016).

The support of the DoES given to other public sector interviewees was commented on by a public sector interviewee who is working on a stage 3 PPP project:

> Support of the Department of Education … [is] essential so the attitude of the Minister and the senior civil servants in the Department are essential … they are the ones who ultimately will be pushing… the bid (P5, 2016)

This interviewee explained that within the DoES there is support for PPP and in relation to one project:

[20] https://www.education.ie/en/The-Department/Management-Organisation/Planning-Building-Unit.html

> people chatted and met people and cups of coffee were had … to build support (P5, 2016)

There is a PPP unit within the DoES and staff working there are experienced and are considered to be champions of PPP. This suggests that there is PPP advocacy within the DoES which strengthens PPP capacity.

Grangegorman – DIT Campus Planning Team

The DIT Campus Planning Team was set up to manage the planning and delivery of the new Grangegorman campus[21] part of which is to be delivered through PPP. The extended study involved an interview with a public sector interviewee closely involved with this development. The interviewee explained that the use of PPP was very much a pragmatic decision:

> so I think the driver for why it's PPP is very much … the state finances rather than an underlying rationale or ideology … it was … the only way to finance it right now, either you can have that or not at all (P5, 2016)

This would suggest that there was not an alternative to PPP and, as a result, there is no PPP champion as would exist in other departments or state authorities. This interviewee explained that there was training given by the NDFA in PPP:

> they effectively gave us a set of master classes (P5, 2016)

A PPP unit has not been set up for the development of the Grangegorman/DIT campus and there is a sense that PPP has been imposed rather than chosen as a method of infrastructure delivery. However, the NDFA is supporting the DIT Campus Planning Team and providing training as required. Overall, PPP advocacy and capacity within the DIT Campus Planning Team seems to be mixed.

Courts Service

The Courts Service was established in 1999 with responsibility for managing court administration, supporting the judiciary and providing court buildings and accommodation (Mazars, 2012). Within the Courts Service Infrastructure and Services Directorate lies the PPP unit.[22] This unit is responsible for:

- The implementation of the Courts Service Public Private Partnership Programme
- Planning and developing projects and services to be delivered by PPP
- The delivery of the Criminal Courts Complex

[21] http://www.dit.ie/grangegorman/projectmanagement/campusplanningteam/
[22] http://www.courts.ie/offices.nsf/0/77D0BB199AB5681880256E5F0043D56A?opendocument

The extended study revealed that the role of this unit is wider than actually documented and includes recommending projects suitable for PPP. This was explained by a public sector interviewee involved in the Criminal Courts of Justice PPP and stage 3 Justice PPPs, who said:

> we've a fair idea what's … suitable for PPP because we've done it before…when we suggest a project we'd know whether it's PPP suitable and we'll discuss it with the NDFA… is this an appropriate PPP? Is it the right scale? Is it the right type of project? We would have discussed that with the NDFA and got their opinion on that before we even throw in a project (P7, 2016)

This public sector interviewee described the Courts Service as having had a very good experience of PPP with the Criminal Courts of Justice building (P7, 2016).

However, another public sector interviewee who is working on stage 2 and 3 Justice projects was critical of Courts Service PPP unit staff:

> I think some of the officials involved would be lacking in expertise (P15, 2016)

This interviewee also implied that Courts Service PPP unit staff are very pro-PPP:

> It's actually the Courts Service again insisting that this is a much better system (P15, 2016)

This interviewee went on to suggest that someone in the PPP unit has:

> an interest in getting buildings done…they try to keep other people out and…they ponder about it themselves (P15, 2016)

When asked about PPP training, the public sector interviewee involved in the Criminal Courts of Justice PPP and stage 3 Justice PPPs explained that they receive emails about training courses mainly given by international groups and delivered abroad. There is the:

> odd seminar that's run domestically… but I think most people working in it it's learn on the job (P7, 2016)

This was confirmed by a public sector interviewee working on stage 3 Justice projects who said:

> I'm not aware of any formal training, but [redacted] was involved in the CCJ as well so [s/he] may have received training then, I certainly didn't (P2, 2016)

Overall, the fact that there is a PPP unit in the Courts Service that experience has been built through the Criminal Courts of Justice complex, that there is criticism that the staff working there are biased in favour of PPP, and that there is a lack experience and no formal PPP training for staff, suggests that PPP advocacy within the Courts Service is mixed.

Transport Infrastructure Ireland (TII)

TII, a government agency, delivers transport infrastructure and services in Ireland. TII is an amalgamation of the former National Roads Authority (NRA) and the former Railway Procurement Agency (RPA). TII carries out its own procurement of PPPs and uses the NDFA as financial adviser. PPP road projects commenced with the N4 Kilcock/Kinnegad contract signed in 2003.

The extended study found that TII was an early adopter of PPP, as a public sector interviewee with more than 15 years' experience of working in transport projects explained:

> we were left to do our own procurement whereas other bodies procured through the NDFA (P3, 2016)

When it was the NRA, the agency set up a specialised PPP unit with a team to deliver its PPP programme which involved the development of a suite of PPP documents (P9, 2016). A former private sector interviewee now working in the public sector with experience of stage 2 and 3 PPP projects spoke of the NRA as being: "a champion of it … and … really professional" when it came to PPP projects (P14, 2016). However, when asked about PPP training for staff the public sector interviewee with more than 15 years' experience of working in transport projects explained:

> we don't have staff to do it (P3, 2016)

Overall, despite the lack of formal PPP training, there is a PPP champion and a PPP unit within TII. This suggests that there is PPP advocacy within TII which in turn strengthens PPP advocacy and capacity.

Office of Public Works (OPW)

The OPW manages and maintains the State's property portfolio[23] and was involved in the Convention Centre and, along with the Courts Service, in the Criminal Courts of Justice PPP and the Courts Bundle PPP.

The extended study found that that the OPW is the planning authority for the Courts Bundle (P15, 2016). Yet despite its extensive involvement in PPP, a PPP unit has not been set up within the OPW and the NDFA procures on its behalf (P7, 2016). The reason for this is not clear and the public and private sectors have differing opinions about this. A public sector interviewee involved in Justice projects explained:

[23] http://www.opw.ie/en/business/

> The OPW … don't like PPPs. I think they see it as a sort of threatening … of their role in you know the State's estate (P7, 2016)

This suggests a tension between the OPW and the Courts Service regarding PPP yet the interviewee from the OPW said of the Courts Service:

> they have a very good working relationship with us and they know we know their methods of working (P15, 2016)

A private sector interviewee who works on the Convention Centre was of the opposite opinion. This interviewee said of the OPW:

> there are people within the OPW that have got different backgrounds … I couldn't criticise them for not being … in complete understanding of what we need to do (P10, 2016)

There is no PPP unit within the OPW but staff working there are very experienced in PPP. The findings of *6.2.2.3 Public sector learning* suggest that there is a tension between the NDFA and the OPW. This, combined with the lack of a PPP unit, the lack of a PPP champion and the suggested negative attitude to PPP within the OPW suggest that PPP advocacy has not been achieved within the OPW which weakens PPP capacity.

Department of Health/Health Service Executive (HSE)

The HSE was established by the Health Act 2004 and is responsible for the provision of health and social services to everyone living in Ireland [24]. The Minister for Health has responsibility for the HSE in government. The NDFA is the financial adviser to the HSE for Primary Care projects (P22, 2016).

A PPP unit has not been established within the HSE despite the cancelled stage 2 National Plan for Radiation Oncology PPP project, the stage 3 Primary Care units and the planned National Forensic Mental Service PPP. However, within the HSE, the HSE Estates section manages capital projects which include Primary Care units[25].

In the extended study carried out in 2016 a public sector interviewee who formerly worked in the private sector noted that:

> there hasn't been a champion in Health (P14, 2016)

However, despite the lack of a formal PPP unit within the HSE, a public sector interviewee working in the HSE described the management of Primary Care units within the HSE as:

> very hands on in terms of this project (P22, 2016)

[24] http://www.hse.ie/eng/services/list/
[25] http://www.hse.ie/eng/about/Who/HealthBusinessServices/Estates/

The interviewee explained that the HSE's approach to managing PPPs differs from Education PPPs in that the NDFA does not manage the Primary Care units in the same way as it manages schools (P22, 2016). This confirms the observation in *6.2.2.3 Public sector learning* that as the HSE is late to PPP compared with others, there is now more of a culture of sharing learning between the parties involved. This suggests that the HSE has observed the involvement of the DoES in PPP, has learnt from its experiences and is using PPP in a way that suits Primary Care.

A private sector interviewee working on Primary Care projects described their involvement with the HSE and their involvement with "two … project directors from the HSE" and the "head of the estates" (P18, 2016), suggesting that the PPP set-up in the HSE is small. This was corroborated by the interviewee from the HSE who said:

> we wouldn't have as many projects … myself and my colleague would have been involved in PPP in HSE … since 2006 when we looked at the first PPP project which was on the National Plan for Radiation Oncology … whilst we wouldn't necessarily be called a PPP unit …you could say there is an expertise in here, albeit that we're not called the PPP unit of the HSE (P22, 2016)

Despite there not being a formal PPP unit, there is a network of staff involved in PPP, as described by this interviewee:

> there would have been myself and [redacted] at a national level, we would then work through our regional estates colleagues who were all involved in the project and then we would have had a service representative, a lead service representative who then would have been involved in engaging with all the different clinical groups…there's probably fifty people across the HSE directly involved…then all the clinical people below that…so it's quite a huge network (P22, 2016)

There is not a PPP unit within the HSE but there is knowledge and expertise built up through experience of various projects and also a positive attitude to PPP. This suggests that there is PPP advocacy and capacity within the HSE which strengthens PPP sustainability.

Summary 6.2.3 Public Sector expertise

There is an understanding that PPP does not "simply substitute private sector capacity for public sector capacity" but rather requires new public sector competence to be developed (Jooste, 2010 p.4). The pilot study outlined in chapter 4 indicated there was evidence of PPP-specific training and guidance to public sector staff had been provided in Ireland (Sheppard

and Beck, 2016). However, when the study was extended in 2016, different government departments and state authorities were examined to see if a PPP unit had been set up, if there was formal PPP training and if there was a PPP champion. The results of this analysis were mixed.

DPER is influential in PPP decision-making, convenes regular PPP steering meetings and appears to be very knowledgeable about PPP. The DoES has a PPP unit, and staff working there are considered to be champions of PPP. The TII lacks formal PPP training but there is a PPP unit and a PPP champion within the authority. Despite the lack of a PPP unit, the HSE has built up PPP knowledge and expertise through experience of various projects and it also has a positive attitude to PPP.

Results were mixed for the Grangegorman/DIT Campus Planning Team which suffers from a lack of a PPP champion. Despite receiving PPP training from the NDFA the interviewee felt that that PPP is being imposed on them. Results were also mixed for the Courts Service which does have a PPP unit. There was criticism that the staff working there are biased in favour of PPP and that there is a lack experience and no formal PPP training for staff. Results were weak for the OPW where there is no PPP unit, a lack of a PPP champion and generally a negative attitude to PPP.

New public sector capacity will create an environment where both the public and private sectors have confidence to cooperate and invest (Matos-Castaño, 2011) thus creates a sustainable environment for PPP. In line with Jooste et al.'s (2009) suggestions, specialised expertise to develop and operate PPP infrastructure has developed in DPER, the DoES, the TII and the HSE but the picture is mixed for the Courts Service and the Grangegorman/DIT Campus Planning Team, and there is evidence of weak PPP support in the OPW.

Dutz et al. (2006) and Petersen (2011) call for the establishment of PPP units, and such units have been established in DPER, the DoES, the TII and the Courts Service but thus have not been developed for stage 3 type PPPs in the HSE and the Grangegorman/DIT Campus Planning Team. Matos-Castaño et al. (2012) advocate for public sector training programs and workshops. The only department or state agency that has received this is the Grangegorman/DIT Campus Planning Team.

Overall, the study suggests that public sector capacity building has been patchy and mixed across government departments and state authorities. This is likely to lead to sustainability issues for the future of PPP in Ireland.

6.2.4: Quality of projects

As discussed earlier in this chapter, successful PPPs require the building of capacity in the form of a vibrant market of private providers which will ensure competition and also increase the quality work (Joost et al. 2009). Matos-Castaño (2011, p.3) points to the advantages of PPP which include "higher quality service at lower cost and more and better projects" and reduced risk. She also contends that commitment to quality is so important that it should be enforced by contracts.

The literature mentions quality in different contexts. For example, the United Nations Economic Commission for Europe (UNECE) (2008) discusses quality in the context of value for money, that is, achieving quality outcomes for less money and ensuring that a low cost design does not result in high maintenance and operating costs. The UNECE (2008) also discusses quality in terms of risk sharing. The main risks are those that arise from technical obsolescence, changing regulation and demand (Shaoul, 2002).

Jooste et al. (2009) expand on the definition of quality to include:

- Identifying the best projects and executing them in a way that takes local context into account
- Selecting a strong consortium
- Ensuring that government understands the objectives of private finance
- Identifying all risk early, transferring the optimum level of risk to the private partner and be willing to mitigate or retain some risk
- Ensuring good project management and contract management on all projects
- Making use of performance specifications on PPP projects
- Providing clear contract clauses for "step-in" rights
- Assessing value for money when assessing a delivery system

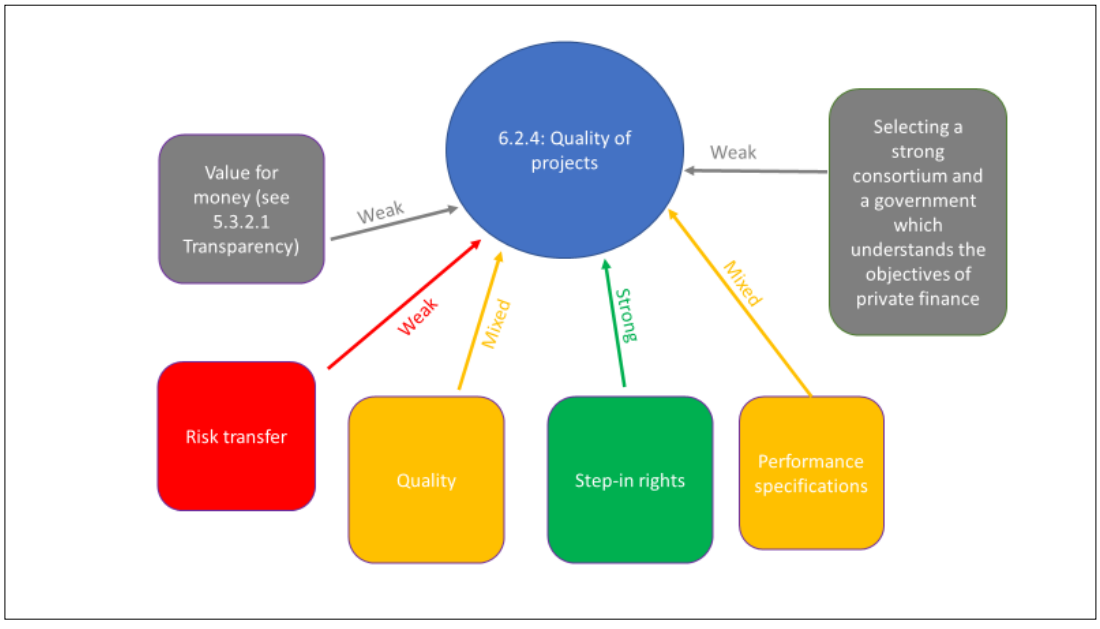
(Jooste et al. 2009, p.10)

During the data analysis a number of elements pertaining to quality were identified by interviewees. These largely fall in line with the elements identified in the literature, in particular, Jooste et al. (2009). The order of analysis chosen is based on the number of text blocks accumulated under each heading during the data analysis stage as outlined in Table 6.4. The number of text blocks does not necessarily reflect the importance of the theme. The last text block "Other" is not analysed specifically but contributes to the other analytical sections when appropriate.

Table 6.4: Order of analysis of 6.2.4 Quality of projects	
6.2.4 Quality of projects	**Number of text blocks**
Risk transfer	221
Quality of projects	157
Step-in rights	31
Performance specifications	13
Other	9
Total	**431**

These elements of risk transfer, quality of projects, step-in rights and performance specifications are summarised in Figure 6.4 which outlines the differing degrees of strength that each element has in contributing to the quality of PPPs, again seen from the perspective of building capacity. It should be noted that assessing value for money overlaps with *Theme 1 Legitimacy*. It was examined in the context of *5.3.1 Lead Institutional Support* in terms of how the NDFA prepares value for money assessments and also in *5.3.2.1 Transparency* in terms of the transparency surrounding how value for money is used to make decisions. The literature advocates for a strong consortium to be selected with a government which understands the objectives of private finance. However, during the extended study no interviewees discussed selecting a strong consortium or the need for the government to understand the objectives of private finance, the absence of which suggests a weak significance attributed to this.

Figure 6.4: Quality of projects



The findings of the pilot study conducted in chapter 4 found that there was mixed evidence of value for money in existing projects (Sheppard and Beck, 2016). However, when the study was extended in 2016, a broader approach to examining quality was applied and the following analysis comments on each individual element in turn.

Risk transfer

The literature states that risks should be held by the party best able to manage them (Burger and Hawkesworth, 2011; De Bettignies and Ross, 2004; Murphy, 2008; Hodge, 2004; Vining and Boardman, 2008b; Burke and Demirag, 2015; Reeves and Palcic, 2017). The literature also notes that to be competitive, bidders sometimes underprice risks to win a contract, and concerns have been raised as to whether the Irish government "cares how accurately risk is priced in PPP" (Burke and Demirag, 2015, p.202). This critical analysis also supports the view that the allocation of demand risk may be based on suboptimal risk allocation, with stakeholders tweaking the process to "diffuse risk to their advantage" (Burke and Demirag, 2015, p.202). The private sector may also seek to protect their income from uncertainty so if uncertainty exists it is unlikely that risk transfer will occur (Gaffney et al., 1999). Moreover it has been argued that it is not always easy to judge if risk transfer occurred for commercial confidentiality reasons (Gaffney et al., 1999).

The findings of the pilot study outlined in chapter 4 support the view of the literature regarding demand risk transfer in Ireland (Sheppard and Beck, 2016). Accordingly it was found that due to the small population of Ireland, road projects, in particular, suffered from poor estimates of demand risk. There was mixed evidence of risk transfer being achieved, with some projects performing within or above expectations and others being problematic. The uncertainty about risk allocation between partners and the costing of risk transfer adversely affected the accuracy and reliability of value for money calculations. In particular, the Clonee-Kells (M3) and Limerick tunnel PPPs suffered shortfalls in traffic volumes, resulting in Transport Infrastructure Ireland (TII) making guaranteed payments to the PPP companies (Sheppard and Beck, 2016).

During the extended study, interviewees spoke about risk transfer in Ireland and it is interesting that only one interviewee referred to the literature's postulate (P18, 2016), that risk should be transferred to the party best able to manage it. Indeed this "classical" view contrasts with how the interviewee who formerly worked with the NDFA spoke of the NDFA's approach to risk transfer:

> The NDFA … will say, the more risk you [the private sector] take the more likely you are to win this contract (P4, 2016)

This issue was also discussed by a public sector representative from the OPW with experience of stage 2 and 3 Justice projects who suggested that risk transfer is not real (P15, 2016), meaning it does not happen. Another public sector interviewee with more than 15 years' experience of working on Transport projects suggested that the government's motivation in transferring demand risk is so that the PPP can be off balance sheet, but the problem with this is:

> in taking it off balance sheet they [the government]… increase the cost for the consumer (P3, 2016)

The public sector is motivated to move risk to the private sector, often to the detriment of the private sector and to the goal of achieving value for money. This was explained by a public sector interviewee involved in Environment projects:

> Irish public sector clients tend to want to move risks across to contractors … we have not got a very risk friendly approach to construction contracts, that hasn't necessarily got us value for money (P9, 2016)

Another issue with the public sector's policy of passing as much risk to the private sector is that the private sector then passes the risk down the line to sub-contractors. This was explained by a public sector interviewee involved in Transport projects who said of the private sector that:

> they always want to diminish their responsibilities as much as they can, they don't want to be responsible for their subbies (P3, 2016)

The danger of this is that sub-contractors will not be motivated to get involved in PPP, thus affecting market demand, an issue raised earlier in *6.2.1 Methods to encourage market demand.* This point was confirmed by a private sector interviewee from a construction company which failed on a Primary Care bid:

> for a contractor a lot of that risk is passed down … the chain from the original … bidder … the entity or … the special purpose vehicle… they're taking all the risk on but they're feeding it down (P16, 2016)

There was also a suggestion that, as the private sector is encouraged to take on as much risk as possible, this is to the detriment of value for money. This was explained by an interviewee who formerly worked with the NDFA:

> the private sector take the risk … away from us [the public sector]… that has a value (P4, 2016)

This view was confirmed by a PPP consultant who has worked on stage 1 and 2 PPP projects in Ireland beginning in 2016. This interviewee suggested that the government is risk averse and passes on risks that it could easily manage itself. As a reaction to this, the private sector charges a premium on the risk. This interviewee explained that the government pays the premium because it does not want the hassle of building infrastructure and in some cases it does not even spot that this is happening (P6, 2016).

A public sector representative from the OPW with experience of stage 2 and 3 Justice projects explained that the private sector accepts risk but protects its interests by including extras. This interviewee discussed an extra air conditioning unit and extra lifts included in a project which were not necessary but were included to mitigate against breakdowns, the cost of which would be borne by the private sector (P15, 2016). This was confirmed by a public sector interviewee involved in a cancelled third level stage 2 PPP, who explained that:

> if you leave risks in there they'll [the private sector] price that risk and they'll cover themselves (P21, 2016)

Risk transfer has proven to be problematic and contentious in PPP with the government motivated to transfer as much risk to the private sector to ensure that projects are off balance sheet. The issues with this is that the private sector in accepting risk is then motivated to pass it down to sub-contractors. There is also a suggestion that the approach to risks is being manipulated and generally not well managed.

Quality of projects

The literature indicates that capacity is built through the identification of the best projects and their execution in such a way that takes into account of the local context (Jooste et al., 2009). There is overlap here with *5.3.2.1 Transparency* where the examination of value for money in decision-making is analysed.

When asked about quality in relation to PPP during the extended study, interviewees discussed the quality of PPP built infrastructure in comparison with conventionally built infrastructure in terms of quality of materials, service and the end product. No interviewees spoke about PPP quality in the context of how projects are selected, suggesting that this is not high on their agenda.

The motivation of the private sector to provide high-quality assets is that ultimately it reduces maintenance costs. For example, a public sector interviewee involved in Justice projects said:

> So the specifications of materials that the buildings are built from is much higher than the traditional build because … maintenance costs money ... so you put in the best kit you can on day one so that it doesn't break down (P7, 2016)

Another public sector interviewee working on Justice projects explained that the Criminal Courts of Justice building flooded shortly after it was opened but reopened two days later. This interviewee explained that if this has been another non-PPP courthouse, it would have been shut for a month (P2, 2016). The design and quality of service provided by the PPP operator ensured that the building reopened as soon as possible.

Other interviewees spoke of the fact that PPP buildings involve the updating and replacement of elements of the building not found in conventionally procured and operated buildings. The consensus among public sector interviewees is that PPP buildings are well maintained which creates a benefit that they will be handed back in mint condition. For example, a public sector working on Justice projects explained:

> in principle … in 25 years time we will still have the equivalent of a brand new building, certainly well functioning plant, replaced, renewed, serviced … whereas if you go around the country now and you look at buildings that were either built or refurbished 25 years ago… an awful lot of them need work done (P2, 2016)

This interviewee compared this with the Dun Laoghaire-Rathdown County Library opened in 2014, a conventionally built building:

> It's not a PPP, I was in that building six to eight weeks after it opened … there were serious scuff marks on the floor that had been obviously there for quite some time … hadn't been properly cleaned .. the anti-slip … edge of … desk[s] … one … was loose … toilet roll holders were broken…[with] PPP they are fixed (P2, 2016)

The benefit of replacement and updating of PPP buildings was also spoken about by the public sector interviewee working on transport PPPs (P3, 2016) and the public sector interviewee involved in education (P17, 2016). This interviewee suggested:

> if you ask me, are teachers happy? They are very happy. The principal is happy, the teachers are happy, they have far better services, their state of the art buildings, they are well maintained and so we have never had a criticism (P17, 2016)

This is also the view held, of course, by private sector interviewees (P11, 2016), (P12, 2016) and (P24, 2016). However, it is interesting that an interviewee who formerly worked with the NDFA stated that the motivation for PPP is:

> more to do with kind of the availability of finance rather than particularly the quality they bring to a particular project … we wouldn't support the idea … that [the] private sector [are] necessarily … the better deliverer of public services, we don't see any evidence of that (P4, 2016)

It is possible that this interviewee is evaluating this from the point of view of being a public sector representative seeking to protect jobs and not as an NDFA representative. The senior public sector interviewee involved in PPP decision-making also avoided talking about PPPs in terms of providing better quality and spoke about this in terms of having: "lots of innovations" (P8, 2016).

Interviewees were positive in their discussions about the quality of the PPP built infrastructure but no interviewees spoke about PPP quality in terms of the how projects are selected, suggesting that this is not an issue which is thought about frequently.

Step-in rights

Jooste et al. (2009) discuss the importance of contract clauses providing for step-in rights in the context of quality. Step-in rights are clauses in contracts that give lenders the right to take control of the contract in case of a "default on payments" (Aziz, 2007, p.924).

During the extended study, private sector interviewees confirmed that step-in clauses exist in PPP contracts (P10, 2016), (P11, 2016). However, a private sector interviewee working on Primary Care projects confirmed that invoking such clauses is a last resort:

> step-in rights …[are the] last resort … if it goes down to [that] they [funders] are already losing money so their key objective is to guarantee there is somebody who can deliver but that if they don't deliver there are certain things that get the step-in rights, they have a long stop date if you don't reach or if it doesn't look as if you're going to get it they can turn to the contractor and find another contractor (P18, 2016)

Overall this suggests that step-in rights did represent an important deterrent.

Performance specifications

Jooste et al. (2009) discuss quality in terms of the use of performance specification on PPP projects. In the extended study, private sector interviewees spoke of key performance indicators (KPIs) built into contracts. For example, a private sector interviewee involved in stage 2 and 3 Education projects spoke of KPIs:

> a measurable KPI that we could be penalised on …[is how] often things are to be maintained and to what standard (P12, 2016)

A private sector interviewee who was successful in winning Primary Care projects and who has international experience of PPP also spoke of KPIs. This interviewee was critical of the approach of focusing on KPIs in contracts and explained:

> in Scotland if you look at the … [KPI] model they went really out for it to the point where they put in some … hard to achieve KPIs (P18, 2016)

This interviewee suggested that Ireland is lagging behind the UK, as the UK has a different approach to measuring performance of PFI:

> I think in Ireland it's not as well done yet … in the UK it's done better because in the UK we would subscribe to economic benefits, KPIs, we would say 80% of the materials or the supplies would come in within a fifty mile radius of the project. We will employ say ten apprentices and whatever and these things are written in the contract with penalties (P18, 2016)

This analysis suggests that the contribution of performance specifications to project quality is mixed.

Summary 6.2.4 Quality of projects

The literature discusses quality in terms of risk transfer and commitment to quality (Matos-Castaño, 2011). The UNECE expands this definition of quality to include achieving value for money (UNECE, 2008) and Jooste et al. (2009) also set out a definition of quality.

In terms of the study, interviewees discussed risk transfer, the use of performance specifications and step-in rights, all in line with the Jooste et al. (2009) analysis of quality. It was found that there was overlap between *Theme 1 Legitimacy, Theme 2 Capacity and Theme 3 Trust* in the context of quality. For example, assessing value for money was already analysed in the context of *5.3.1 Lead Institutional Support* in terms of how the NDFA prepares value for money assessments and also in *5.3.2.1 Transparency* in terms of the transparency surrounding how value for money is used to make decisions. Another of the Jooste et al. (2009) definitions of quality includes ensuring good project management and

contract management on all projects, and this theme is addressed in *6.3.1 PPP programme accountability*. However, no interviewee discussed selecting a strong consortium or a need for government to understand the objectives of private finance, the absence of which suggests a limited acknowledgment of the importance of these factors.

In terms of risk transfer, the study found that risk is not transferred in line with the method suggested by Burger and Hawkesworth (2011); De Bettignies and Ross (2004); Murphy (2008); Hodge (2004); Vining and Boardman (2008b). The findings of this study also suggest that the government is motivated to transfer as much risk as it can to ensure that the PPP is off balance sheet. In *6.2.2.4 Learning from PPP projects in other countries (apart from the UK) and from other entities* it was suggested that the NDFA now represents a model with regard to PPP and that Ireland has now entered a maturity phase of PPP. However, it appears that Ireland does not possess a very sophisticated approach to risk transfer and is transferring risks, not to the entity best able to manage them, but is taking an expedient approach which is aimed at ensuring that PPP is kept off balance sheet. This would suggest that Ireland has an immature approach to risk transfer.

Issues raised regarding risk transfer pose questions as to whether current approaches help achieve value for money, something that cannot be evaluated due to transparency issues as discussed under *5.3.1 Lead Institutional Support* and *5.3.2.1 Transparency*. These concerns are also in line with the criticism expressed by Gaffney et al. (1999). Another issue raised is a concern that the private sector is accepting risk and passing it down to sub-contractors, a problem that was also highlighted in *6.2.1 Methods to encourage market demand*. The findings of the study moreover suggest that risk is being manipulated and not being managed well. This is particularly concerning in light of Eurostat's interpretation of the rules concerning PPP, which may result in some PPPs coming back on balance sheet (Kelly, 2016). The research raises serious concerns that the way risk transfer is carried out is problematic, which means the role of this in building PPP capacity is weak.

The literature states that capacity is built through the identification of the best projects and execution of them in such a way that takes into account the local context (Jooste et al., 2009). There is overlap here with *5.3.2.1 Transparency* where the examination of value for money in decision-making is analysed and was found to be lacking. However, in the study interviewees discussed quality of PPP built infrastructure solely in terms of the quality of materials, service and the end product. No interviewees spoke about PPP quality in terms of the how projects are selected, suggesting that this is not high on their agenda. However, interviewees were positive in their discussions about the quality of the PPP built

infrastructure. Overall the contribution of this component of quality to developing PPP capacity is mixed.

Jooste et al. (2009) emphasise the importance of step-in clauses and performance specifications in the context of quality and interviewees confirmed that they do exist and as such strongly contribute to building capacity in PPP.

Jooste et al. (2009) state that making use of performance specifications on PPP projects is essential in the context of quality. However, an interviewee who has worked on international PPPs suggested that Ireland is behind the UK in its approach to setting performance specifications in PPP contracts. This suggests that the contribution of performance specifications to building capacity in PPP is mixed.

In summary, the contribution of various components of quality and quality management to building capacity in PPP in Ireland is mixed, particularly when looked at in the context of existing problems with regard to value for money and transparency.

6.2.5: Coordination of deal flow

The literature indicates that capacity not only refers to the building up of competence within government, which includes the public sector, but also the building of the capacity of the private sector (Jooste et al., 2009). One way of achieving this is to develop a PPP programme which includes an environment which attracts private investment. This is helped by the development and application of a legal framework which should be applied consistently and by coordinating the PPP deal flow (Jooste et al., 2009; Dewulf et al., 2011). There is overlap here between *Theme 1 Legitimacy* and *Theme 2 Capacity* as the establishment of a legal and regulatory framework is also considered to be necessary to build legitimacy as discussed in *5.3.2.2 Legal and regulatory framework*. During the extended study, it was found that there are mixed results in terms of the legal and regulatory framework and its contribution toward the legitimacy of PPP.

Dewulf et al. (2011) and Jooste et al. (2009) explain that coordinating deal flow is achieved through communicating upcoming projects to the market. During the extended study, it was found in *5.3.1 Lead Institutional Support* that the NDFA is instrumental in keeping the market informed, an activity that contributes to the legitimacy of PPP.

Jooste et al. (2009) discuss the coordination of deal flow in terms of coordinating the exercise of public sector buying power. However, there is a disconnect here as the public sector departments are removed from the direct procurement of PPP in that the NDFA manages this function. In *5.3.1 Lead Institutional Support* the various roles of the NDFA is

discussed. These include acting as a procuring adviser as well as a financial and technical adviser to government departments. During the extended study, it was confirmed that the NDFA has a strong role as an adviser to the public sector and expert in the procurement process.

Deal flow was also referred to in *5.3.4 Project portfolio* where it was found that increasing the number of PPP projects is seen by stakeholder interviewees as essential for the legitimacy of PPP. During the extended study, it was found that the private sector considers the public sector's assertion of a pipeline of projects to be patchy, which and in turn weakens the legitimacy of PPP.

The literature suggests that the establishment of a PPP unit is also a contributor to building capacity in PPP especially where it encourages deal flow (Jooste et al., 2011). This also overlaps with *Theme 1 Legitimacy* where the establishment of a PPP unit or Lead Institutional Support is also seen as necessary to build legitimacy in PPP (see *5.3.1 Lead Institutional Support*). During the extended study, it was found that the NDFA is a promoter of PPP which does not necessarily contribute to the legitimacy of PPP.

Jooste et al. (2009, p.9) also discuss the coordination of deal flow in terms of the avoidance of "bunching" of projects, something also reiterated by Dewulf et al. (2011). During the extended study, a private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to work on Social Housing projects explained that the NDFA tries to avoid bunching of projects:

> No they try and keep them … staggered (13, 2016)

However, the extended study highlighted the lack of a coordinated deal flow and in particular suggested that there is either a glut or a famine of projects. This is of concern to the public and private sectors. For example, an interviewee who formerly worked with the NDFA discussed:

> sometimes when there was no projects and … sometimes when there was three or four or five or six projects that the NDFA were working on at the one time (P4, 2016)

Concern was also expressed by a senior public sector interviewee involved in PPP decision-making who said:

> there's a bit of a lull now before we announced two phases … it will take some time before they actually go to market and the question is, will the funders have gone away because we're not issuing one every couple of months or something … in the meantime … the big PPP Cos aren't going to send teams …over here and waiting for it to come… and it's this trade-off between having enough of a pipeline going into the future that people will be putting effort in to bidding for the work and … at the same time not over committing ourselves … we're limited to the amount of PPPs we feel we can do (P8, 2016)

A public sector interviewee who is working on a stage 3 education PPP project expressed concern about deal flow:

> PPP is not viable unless there's a steady stream of projects (P5, 2016)

As would be expected, the private sector is also concerned about deal flow. For example, a private sector interviewee who has worked on stage 2 and 3 PPPs and is hoping to work on Social Housing projects said:

> I think PPP needs to be … constant…And we're not doing the constant bit… at the moment we're waiting for the next PPP announcement in terms of the next slew of projects that are coming out … announcements that aren't followed up (P13, 2016)

This interviewee speculated that this is not the fault of the NDFA but is down to political decision-making:

> what can the NDFA do? They're waiting on word from above (P13, 2016)

However, this interviewee made the point that delays in deal flow are cumulative when procurement rules are taken into account, and this can result in an onerous procurement process:

> it's always tight. .. there are statutory timelines that they have to keep to in terms of EU procurement… depending on when they publish notices timelines are statutory… I think there's enough advance warning because it's not about … putting the bid together it's getting your team together (P13, 2016)

This reiterates the findings in *6.2.1 Methods to encourage market demand,* which stated that PPP timeframes are still very long.

Summary 6.2.5 Coordination of deal flow

During the study, mixed evidence was provided that a deal flow is contributing to PPP capacity building. This was supported by the earlier examination of the legal and regulatory

framework in *5.3.2.2 Legal and regulatory framework*, the results of which were also found to be mixed. The examination of the NDFA in *5.3.1 Lead Institutional Support*, in which the contribution of the NDFA in keeping the market informed had been found to be strong as is its role as adviser and expert. However, the role of the NDFA as a promoter of PPP was shown to be a strong but a negative attribute in terms of its potential contribution to the legitimacy of PPP. Also, the analysis in *5.3.4 Project portfolio* indicates that the pipeline of projects was found to be patchy and, despite the NDFA's endeavours to avoid bunching of projects, there is a lack of a coordinated deal flow.

6.2.6: Performance of PPPs

The literature indicates that the capacity to undertake PPPs is strengthened by the "ability to structure and govern PPP projects", for example, through procedural frameworks and regulation (Matos-Castaño et al., 2012, p.5). Jooste (2010) suggests that this should take the form of independent oversight of performance monitoring, the results of which should be published. This will provide evidence that can be used to improve future projects (Verhoest et al., 2013)

It appears that the NDFA considers performance monitoring to be essential, as expressed by Stephen Burgess, then Head of Procurement and Project Management, NDFA, who stated:

> This includes a more visible and transparent reporting regime between the PPP and ourselves in terms of its level of compliance on a monthly basis with, for example, payments to sub-contractors within the supply chain. A statement to that effect must be signed by two directors. Failure to comply would potentially constitute a breach of contract. We ensure compliance is taken seriously (Dáil Éireann, 2012b, p.29)

However, the findings of the pilot study outlined in chapter 4 indicated that there was a high degree of fragmentation in the regulatory oversight of Irish PPPs. As statutory financial adviser, the NDFA has responsibility for the procurement of PPPs in sectors other than transport, local authorities and the direct procurement of certain education projects. It performs its functions through the National Treasury Management Agency, and while its fees and expenses are audited by the Comptroller and Auditor General (C&AG), the auditor does not oversee procurement decisions nor does it publish the performance-monitoring results of the NDFA (Sheppard and Beck, 2016).

When the extended study was conducted in 2016, interviewees confirmed that Irish PPPs are monitored in terms of performance and this is linked to unitary fees. This was explained by an interviewee who formerly worked with the NDFA:

> one of the big performance measures is that …at end of the contract the facility [the asset] has to be handed back to the public sector … in the state it's supposed to be from day [one] … [there is] ongoing dialogue between the PPP company and … the other [public sector] partner … about what they are doing around performance and keeping the infrastructure …[it is] built into the detail of contracts (P4, 2016)

The public sector interviewee involved in Justice projects explained:

> There's a lot [of] analysis done… during operation …there's a payment mechanism … and testing that's done on a monthly basis on most projects …you get a report … once a month with all the metrics… it's an obligation… the PPP company has to report monthly… the PPP company … are responsible for everything … we will get [a] monthly report as to what the service failures were… there is absolutely everything in the report about every aspect of their service and because … there are deductions for service failures you get the monthly rigour of looking at that (P7, 2016)

This point was also confirmed by a private sector interviewee who was successful in winning Primary Care projects, who stated:

> there are … strict performance criteria, availability criteria and they [the private sector] are financially hit every time they don't deliver (P18, 2016)

Performance failures in some projects are logged at a service desk, as described by a private sector interviewee who works on the Convention Centre:

> we have a service desk so any query, fault etc., complaint from the member of the public gets logged immediately… you can literally at a point of time produce a report and it will tell you all these different tickets that were raised, how long it took to respond, to rectify, what the outcome was and the OPW get lists of all these things ... the OPW would … have visibility on all that and they'll track that every month (P10, 2016)

A fine, or a reduction in the unitary payment made by the public sector to the private sector is imposed for service failures. This can vary and was described in one case as follows:

There was quite a substantial fine (P4, 2016)

However, the issue here is that there is no independent oversight as performance is monitored by the NDFA, TII or public sector department who are typically involved in the project procurement. This was confirmed by the previous interviewee who said that it was the OPW which monitored performance in the Convention Centre. The public sector interviewee with more than 15 years' experience of working in transport projects confirmed that it was TII which monitored performance on transport projects:

it's more ourselves, as in the public sector, are monitoring them (P3, 2016)

A PPP consultant who has worked on stage 1 and 2 PPP projects in Ireland beginning in 2006 confirmed that it was also the NDFA which monitored performance (P6, 2016). This suggests that there may be a lack of independency in the way operational projects are managed on account of the fact that the public sector who commissioned the project performs this.

Summary 6.2.6 Performance of PPPs

The analysis under *5.3.2.1 Transparency* highlighted the lack of transparency surrounding PPP, particularly with regard to post-project reviews, which has serious implications for capacity building. This is out of line with the recommendation of the literature that such reports be published (Verhoest et al., 2013). Coupled with the fact that there is a lack of independent oversight of performance monitoring, again in direct contradiction to the recommendations set down by the literature (Jooste, 2010), suggest a serious weakness in PPP capacity building.

Conclusion of Theme 2 Capacity

The literature on institutional theory was examined in chapter 3 and in the context of PPP it was found that PPPs were considered more sustainable when governments understood the complexity of PPP and where institutional capacity was built. Accordingly, this research focused on institutional theory to examine the legitimacy, capacity and trust of PPP as a means for gauging whether this policy is sustainable. This is in line with a similar framework proposed by Matos-Castaño et al. (2012) and Jooste et al. (2009). The data collected during the study was analysed in line with the theory and themes were created from the data. These were legitimacy, capacity and trust. Theme 2 examines the capacity of PPP and its contribution to the sustainability of this policy.

Theme 2 Capacity was divided into sub-themes during the data analysis. In *6.2.1 Methods to encourage market demand* it was found that the cancellation of projects during the financial crisis and a subsequent loss of state credibility in the PPP market weakened

Ireland's capacity to undertake PPPs. The stimulus programme announced in 2012 and new measures announced in 2013 have had mixed results in terms of contributing to building capacity in PPP. These issues are summarised in Figure 6.1 which outlines the effect that each factor has on building the capacity of PPP.

The introduction of design-led PPPs with planning in place has been welcomed by the public and private sector. However, there is concern that this has resulted in a lack of innovation, which is a serious concern as innovation is one of the motivating factors given for PPP procurement.

Interviewees considered the reduced timeframe for preparing PPP projects to the market through to contract award has not been significant and the process is still too long making it less attractive compared to forms of procurement. The partial refund of bid costs to unsuccessful bidders in Phase 1 of the stimulus programme was seen as a gesture and not significant in terms of overall bid costs and has not had a substantial effect on encouraging the market.

The pipeline of projects introduced in the Infrastructure and Capital Investment Plan 2016 – 2021 has been unclear and the timelines confusing for the private sector, which has had implications for attracting private sector interest in PPP. Another capacity weakness identified by interviewees was the difficulty in attracting foreign companies to bid in Ireland due to the small scale of the market. The NDFA is trying to encourage local contractors to engage with PPP but the transfer of risk down the line to sub-contractors can be prohibitive. The Irish market is dominated by one company, yet local contractors need to align with larger contractors. International companies willing to bid in Ireland are at a disadvantage as they are not familiar with the bidding process.

These findings are not in line with the literature which suggests that governments should develop the necessary capacity to ensure that projects are brought to fruition successfully (Matos-Castaño et al., 2012). These authors write that capacity to undertake PPPs will strengthen the ability to structure and govern PPP projects which is necessary for PPP development. While the pilot study outlined in chapter 4 indicated that the Government recognised the need to create a pipeline of PPP projects (Sheppard and Beck, 2016) the extended study suggests that, while there is currently interest in the Irish market, it is quiet at the moment and the concern is that the private sector capacity built up will diminish, which will have adverse effects on the sustainability of PPP.

6.2.2 Policy learning was divided into sub-themes during the data analysis. These

themes are summarised in Figure 6.2 which outlines the varying strengths of the learnings that have taken place in relation to PPP and their contribution to building capacity in PPP. *6.2.2.1 Learning from UK PFIs* indicates that learning from the UK has taken place and continues to take place but it also suggests that there has been adaption to the Irish market. Another finding is that policy learning is refined over time. Initially when policies are transplanted there is mimicry, but as the policy-makers and implementers become more experienced and confident, mimicry becomes less prevalent. It appears that Ireland relied heavily on learning from the UK initially but more recently is relying on learning from indigenous projects. The research confirms that learning from UK projects that has taken place is strong, therefore increasing PPP capacity and contributing to the success of PPPs in Ireland.

The research indicates that, as outlined in *6.2.2.2 Learning from Irish PPPs*, as projects have moved through the various PPP stages 1 – 3, increasingly stage 3 projects are learning from stage 1 and 2. This suggests that overall learning from Irish PPPs is varied and its contribution to increasing PPP capacity mixed.

6.2.2.3 Public sector learning presents evidence that learning within the public sector is strong, with learning taking place between departments and the PPP steering committee. This suggests that the pathway to learning has evolved in Ireland as PPP has matured.

The research indicates that there may be conflict between the OPW and the NDFA and that there is a sense that the NDFA believes it is in charge of government departments. If this is correct, it ties back to *5.3.1 Lead Institutional Support* which discusses the NDFA as being a market driver and highlights how it is trying to manage the public and private sectors. On the one hand the NDFA is trying to legitimise PPP by encouraging the policy but on the other hand it seems to be managing government departments and thus stifling capacity.

The NDFA has not established a national PPP training programme to build expertise within government departments as recommended by the UNECE (2008). Instead the public sector shares information at the PPP steering committee level. The NDFA acts as a common link between the public and private sectors and thus shares its learning with the private sector. This suggests that Ireland has developed a unique national pathway to policy learning that has evolved organically from the strong position of the NDFA.

In *6.2.2.4 Learning from PPP projects in other countries (apart from the UK) and from other entities* it was confirmed that public sector learning from countries other than the UK is weak, with no interviewee mentioning learning from EPEC. It appears that the NDFA does not consider EPEC to be a significant contributor to PPP in Ireland. An interesting observation is that in EPEC's 2014 review of PPP units the NDFA is commented on as an

agency with “a clear focus on delivering specified outputs within a framework of accountability to ministers or parliament, allowing the ministry or department to focus on policy issues” (EPEC, 2014, p.64). Perhaps the NDFA is seen as a leader of PPP units and is not considered to be a follower of other PPP units. This suggests that while policy transfer initially took place between the UK and Ireland, this has now evolved to a situation where Irish PPP policy is being transferred to other countries. Ireland thus seems to have entered a maturity phase with PPP, at least in as far as external observers are concerned.

In *6.2.2.5 Private sector learning* it was confirmed that private sector learning is centred on learning from local experiences of PPP. This type of learning appears to be strong, and through the formation of consortia smaller private sector participants can team up with experienced PPP staff. The private sector also draws lessons from the NDFA as discussed in *6.2.2.3 Public sector learning*. However, in *6.2.1 Methods to encourage market demand,* the scale of the Irish market, an uncertain pipeline of projects and limited contractor capacity were considered impediments to attracting private sector interest. If this is considered in the context of the potential to form consortia in which learning can take place, there is a possibility that wider learning in the private sector, certainly for smaller contractors be limited.

The literature suggests that capacity to manage PPPs is enhanced by the institutionalisation of expertise and systems for learning and knowledge diffusion (Verhoest et al., 2015), all of which are key to PPP success (Matos-Castaño et al., 2014). The pilot study discussed in chapter 4 indicated that although the interdepartmental group tasked with exploring the introduction of PPP in 1998 endeavoured to learn from UK PFI experiences, it was unclear whether this was effectively communicated to public sector managers (Sheppard and Beck, 2016). The extended study suggested that learning from UK PFIs, learning from the public sector and learning from the private sector all strongly contribute to building capacity in PPP. Learning from Irish PPPs and its contribution to building capacity in PPP is mixed and learning from PPP projects in other countries, apart from the UK, and other entities is weak in its contribution to building capacity in Irish PPP.

In *6.2.3 Public sector expertise* the results of the 2016 extended study indicated that in government departments and state authorities expertise in PPP was mixed. These themes are summarised in Figure 6.3 where the different degrees of strength that each government department or state authority has in growing public sector expertise in PPP is outlined. Specialised expertise to develop and operate PPP infrastructure has been developed in DPER, the DoES, TII and the HSE but the situation is mixed for the Courts Service and the

Grangegorman/DIT Campus Planning Team and weak in the OPW. This is in line with Jooste et al. (2009) and confirms Matos-Castaño's (2011, p.18) suggestion that new public sector capacity will create an environment where both the public and private sectors have "confidence to invest and cooperate together", which will lead to sustainable environment for PPP to flourish. This would apply to most Irish government departments involved in PPP but obviously not to all of them.

PPP units have been established in DPER, the DoES, the TII and the Courts Service, which is in line with the recommendations of Dutz et al. (2006) and Petersen (2011, but they have not been developed for stage 3 type PPPs in the HSE and the Grangegorman/DIT Campus Planning Team. In line with the recommendations of Matos-Castaño et al. (2012) it appears that the Grangegorman/DIT Campus Planning Team has received training in PPP.

There is an understanding that PPP does not simply substitute private sector capacity for public sector competitive but rather that they require new public sector capacity to be developed (Jooste, 2010). The pilot study outlined in chapter 4 suggested that there was PPP-specific training and guidance to public sector staff (Sheppard and Beck, 2016). The findings of the extended study are that public sector capacity is patchy and mixed across government departments and state authorities, which is likely to lead to sustainability issues for the future of PPP in Ireland.

In terms of *6.2.4 Quality of projects* the literature discusses quality in terms of risk transfer and commitment to quality (Matos-Castaño, 2011). The UNECE expands this definition of quality to include achieving value for money (UNECE, 2008) and Jooste et al. (2009) also set out a definition of quality which will be discussed shortly. Figure 6.4 summarises the issues regarding the quality of PPP projects and outlines the degrees of strength that each element has in contributing to the quality of PPPs which is necessary in building capacity.

During the data analysis stage, it was noted that there was overlap between *Theme 1 Legitimacy*, *Theme 2 Capacity* and *Theme 3 Trust* in the context of quality. For example, "assessing value for money" had already been examined in the context of *5.3.1 Lead Institutional Support* in terms of how the NDFA prepares value for money assessments and also in *5.3.2.1 Transparency* in terms of the transparency surrounding the use of value for money calculations in decision-making. Jooste et al. (2009) provide a definition of quality which includes ensuring good project management and contract management on all projects, and this theme is addressed in *6.3.1 PPP programme accountability*.

As regards key aspects of PPP quality highlighted in the literature it was found that no interviewee discussed selecting a strong consortium or whether the government understands the objectives of private finance, all quality issues, the absence of which suggests a weak understanding among interviewees of this area.

In terms of risk transfer, the study found that risk is not transferred in line with the method suggested the literature which is to the party best able to manage it (Burger and Hawkesworth, 2011; De Bettignies and Ross, 2004; Murphy, 2008; Hodge, 2004; Vining and Boardman, 2008b; Burke and Demirag, 2015). The findings suggest that the government is motivated to transfer as much risk as it can to ensure that the PPP is off balance sheet. In *6.2.2.4 Learning from PPP projects in other countries (apart from the UK) and from other entities* it was suggested that the NDFA is now a model in terms of PPP policy-making which suggests that Ireland has now entered a maturity phase of PPP, at least in so far as outside observers are concerned. However, it appears that Ireland does not have a very sophisticated approach to risk transfer and is not transferring risks to the entity best able to manage as it is taking an expedient approach to ensure that PPP is kept off balance sheet. This suggests that Ireland has at best an under-developed approach to risk transfer.

Issues raised regarding risk transfer suggest that current practice is unlikely to provide value for money, something that cannot be proven due to transparency issues which were raised in *5.3.1 Lead Institutional Support* and *5.3.2.1 Transparency*. Another issue raised is a concern that the private sector is accepting risk and passing it down to sub-contractors, a problem highlighted in *6.2.1 Methods to encourage market demand*. The findings of the study suggest that risk is being manipulated and not being managed well. This is particularly concerning in light of Eurostat's interpretation of the rules concerning PPP, which may result in some Irish PPPs coming back on balance sheet (Kelly, 2016). Overall the research raises serious concerns that risk transfer and its role in building PPP capacity is weak.

The literature states that capacity is built through the identification of the best projects and execution of them in such a way that takes into account the "local context" (Jooste et al., 2009, p.10). There is overlap here with *5.3.2.1 Transparency* where the examination of value for money in decision-making is analysed and was found to be lacking. However, in the study interviewees discussed the quality of PPP built infrastructure in terms of the quality of materials, service and the end product. No interviewees spoke about PPP quality in terms of the how projects are selected, suggesting that this is not high on their agenda. Interviewees, meanwhile, were positive in their discussions about the quality of the PPP built infrastructure. Overall quality of PPPs in building capacity is mixed.

Jooste et al. (2009) emphasise the importance of step-in clauses and interviewees confirmed that they do exist and that this contributes potentially to building capacity in PPP. Jooste et al. (2009) also state that making use of performance specifications on PPP projects is essential in the context of quality. However, an interviewee who has worked on international PPPs suggested that Ireland is behind the UK in its approach to performance specifications in PPP contracts. This suggests that the contribution of performance specifications to building capacity in PPP may be mixed.

In summary, the contribution of various component aspects of PPP quality to building capacity in PPP in Ireland is mixed particularly when looked at in a context to which highlights a problematic approach to the issues of transparency.

Mixed evidence also emerged in *6.2.5 Coordination of deal flow* which suggested that an adequate deal flow exists which is contributing to PPP capacity building, but also suggested that there were still problems in this area. This chimed with the earlier examination of the legal and regulatory framework in *5.3.2.2 Legal and regulatory framework,* the results of which were found to be mixed, and the examination of the NDFA in *5.3.1 Lead Institutional Support*. Here the contribution of the NDFA in keeping the market informed had been found to be strong in terms of its role as adviser and expert, while the strong role of the NDFA as a promoter of PPP was shown to be seen a negative attribute in as far as its contribution to the legitimacy of PPP. Also, the analysis in *5.3.4 Project portfolio* indicates that the pipeline of projects was patchy, and despite the NDFA's endeavours to avoid bunching of projects, there was a lack of a coordinated deal flow.

6.2.6 Performance of PPP highlights that there is a lack of transparency surrounding PPP, particularly of post-project reviews, which has serious implications for capacity building. This is out of line with the recommendation of the literature that such reports be published (Verhoest et al., 2013). Coupled with the fact that there is a lack of independent oversight of performance monitoring, again in direct deviation from the recommendations set down by the literature (Jooste, 2010), this suggests a serious weakness in capacity building Irish PPP projects.

Perhaps, most importantly, this part of the study suggested that private sector capacity built up is likely to diminish as the Irish market is currently very quiet. While learning from UK PFIs, from the public sector and from the private sector strongly contribute to building capacity in PPP, learning from Irish PPPs and its contribution to building capacity in PPP is mixed. Learning from PPP projects in countries other than the UK, and other entities is weak in its contribution to building capacity in PPP. Public sector capacity is patchy and mixed

across government departments and state authorities which may lead to sustainability issues for the future of PPP in Ireland. This situation is aggravated by a lack of widespread oversight which makes it unlikely that the performance of individual Irish PPP will be compared holistically.

6.3 Theme 3 Trust

As previously noted the research draws on institutional theory to examine the legitimacy, capacity and trust of PPP with the overall objective of gauging whether this policy is sustainable in Ireland. This is in line with a similar framework proposed by Matos-Castaño et al. (2012) and Jooste et al. (2009). In this chapter trust is examined in the context of PPP. Trust has been defined as an attitude relating to the willingness to rely on the actions of other actors, under the condition of contractual and social obligations, with a view to collaborating (Smyth and Pryke, 2008). Zaheer et al. (1998, p.143) further suggest that trust comprises of "the expectation that an actor (1) can be relied on to fulfil obligations, (2) will behave in a predictable manner, and (3) will act and negotiate fairly when the possibility for opportunism is present".

In the context of PPP, Matos-Castaño (2011) have put forward a definition of trust which includes fostering trust between the public and private sectors through the use of standards and mechanisms implemented by government. Specifically, the public sector can develop trust through the use of decision-making departments, guidance documents, a regulatory agency, dispute resolution mechanisms and cooperation platforms. The private sector can develop trust through the use of project monitoring and cooperation platforms. Verhoest et al. (2015) stipulate that trust is developed between the public and private sectors through the use of clear regulations and standards, clearly defined roles of the public sector and ex-ante evaluation.

Jooste et al. (2009) do not discuss trust itself but emphasise balancing the interests of the various stakeholder groups: the public sector, the private sector and the civic sector. They suggest that there should be "give and take" between the various stakeholder groups specifically, fairness in contract negotiations, regulation, preventing corruption and preventing opportunistic behaviour (Jooste et al., 2009, p.7). In other words, there should be trust between the various stakeholders involved in PPP and this will strengthen the sustainability of the policy.

In this study, the term "trust" is used in line with Matos-Castaño (2011) and it is found that there is overlap between trust, legitimacy and capacity. For example, trust can be developed through the use of decision-making departments (Matos-Castaño, 2011). During the extended study conducted in 2016, aspects relating to this were examined under *5.3.1 Lead Institutional Support*, where the role of the PPP unit, the NDFA in this context, in contributing to the legitimacy of PPP was found to be mixed. It was also examined under

6.2.3 Public sector expertise where the roles of government departments and state authorities and their contribution to the building of capacity in PPP were found to be mixed. Trust is also developed between the public and private sectors through the use of clear regulations and standards (Verhoest et al., 2015). There is overlap therefore with *5.3.2.2 Legal and regulatory framework*. During the extended study it was found that the legal and regulatory framework's contribution to legitimacy was mixed and the NDFA's flexible approach to applying rules along with the fragmented approach to updating guidelines and contracts weaken the legitimacy of PPP. The private sector can develop trust through the use of "project monitoring" and "cooperation platforms" (Matos-Castaño, 2011, p.22). There is overlap here with *6.2.6 Performance of PPPs*. During the extended study, it was found that PPPs are monitored in terms of performance but that there is a lack of transparency surrounding the publication of the results, which seriously weakens trust in the context of the taxpayer. Trust is also developed through the use of oversight by a regulatory agency (Matos-Castaño, 2011). There is overlap here with *6.2.6 Performance of PPPs* where the pilot study outlined in chapter 4 drew attention to the high degree of fragmentation in the regulatory oversight of Irish PPPs (Sheppard and Beck, 2016).

The approach to the analysis of data under *Theme 3 Trust* in this section is similar to the approach adopted in *Theme 1 Legitimacy* and *Theme 2 Capacity*. The method for this is outlined in *4.4.1 Data analysis used in this research study*. Appendix H shows how the literature groups the broader themes under the main themes. Appendix I shows the thematic framework which was reflected in Table 5.1 shown earlier and is now repeated for *Theme 3 Trust*. The order in which the analysis of the Trust theme is again carried out is based on the number of text blocks identified against each sub-theme, as outlined in Table 6.5. The number of text blocks does not necessarily reflect the importance of the theme.

Table 6.5: Order of analysis of Theme 3 Trust

Name	**Number of text blocks**
6.3 Theme 3 Trust:	366
6.3.1 PPP programme accountability	250
6.3.2 Fairness of PPP procurement	63
6.3.3 Complaints and arbitration	53

Specifically, *6.3.1 PPP programme accountability* examines whether there is independent oversight in PPP, *6.3.2 Fairness of PPP procurement* examines whether there is fairness in project procurement and selection, and *6.3.3 Complaints and arbitration* examines how dispute resolution is structured.

6.3.1 PPP programme accountability

The literature indicates that PPP capacity can be built through government by ensuring that PPPs are held accountable in terms of their performance. This usually is not by the PPP unit, but by an independent scrutiniser who is technically competent to review projects (UNECE, 2008). Feedback received should then be used to inform future policy and guidance (UNECE, 2008). However, in the context of building trust between the public and private sectors, the literature suggests that this can be developed through the use of project monitoring and reporting by the private sector (Matos-Castaño, 2011), in other words, self-monitoring. The European PPP Expertise Centre (EPEC) has commented that the NDFA operates within "a framework of accountability to ministers or parliament" (EPEC, 2014, p.64). It is interesting that there is no mention of accountability to the public or taxpayer.

During the extended study, interviewees spoke of accountability. Superficially, there appears to be accountability in Irish PPPs in terms of the private sector preparing performance reports for the NDFA, an independent auditor oversees the initial operation of the asset and benchmarking exercises are carried out, but there appears to be a lack of independent scrutiny of PPPs.

A private sector interviewee who works on the Convention Centre, a stage 2 PPP project, gave the following comments regarding oversight:

> it's an awful lot of money the government put in … as a taxpayer … I would say we've probably come off lightly in the amount of scrutiny we get from the public sector (P10, 2016)

However, interviewees had different ideas as to what constituted good accountability. Some thought that the reports drawn up by the private sector which trigger unitary payments constituted accountability. For example, a public sector interviewee involved in stage 2 and stage 3 Justice projects thought that there is accountability, but in the sense that there is a public sector employee overseeing the day-to-day operation of the PPP and the reporting that is carried out:

> Yeah there'd be quite rigorous… in the CCJ we've a building manager …There's a lot more analysis done, a lot more data, even during operation there's a payment mechanism there and testing that's done on a monthly basis on most projects… contract management is a lot more robust than traditional build (P7, 2016)

This was the view also held by a private sector interviewee involved in stage 2 and 3 Education projects. It was revealing that this interviewee highlighted the fact that self-reporting by the private sector was built on trust between the public and private sectors:

> we have to do a monthly report for the authority… That would cover all of the help desk items, the length of time it took to close them out, any penalties … we have to tell the authority what they have to penalise us, like it has to … very transparent and … we go with our begging bowl, but … it isn't a wink, wink, nudge, nudge situation at all … you live by the contract and you have to perform to that (P12, 2016)

Other interviewees took accountability to mean the use of the service or help desk in PPPs. A private sector interviewee who works on the Convention Centre, a stage 2 PPP project, spoke of how the service desk is used:

> we have a service desk so any query, fault etc., complaint … gets logged immediately... you can literally at a point of time produce a report and it will tell you … how long it took to respond, to rectify, what the outcome was and the OPW get lists of all these things (P10, 2016)

A private sector interviewee involved in stage 2 and 3 Education projects also explained how the help desk is used to generate the payment mechanism in the contract and to gather information on key performance indicators (KPIs). This interviewee again drew on the fact that this reporting mechanism is based on trust and the running of it is not overseen by the public sector:

> part of … the contract was we had to build a help desk to drive out … the payment mechanism in the contract … every single service we provide … has … performance standards… a KPI, it has a monitoring methodology all built into our help desk and it has a penalty attached to it that will be accrued if we don't comply and part of our contract is that we have to report … if we don't do something we have to say we haven't done it so you'd be … saying to yourself … if [you] … didn't say you didn't do it who'd know. Well the principal would know, it's part of your obligation, you have to, it has to be very transparent (P12, 2016)

The extended study also revealed that interviewees believed accountability to encapsulate the use of a process auditor or independent auditor who oversees the initial operation of the asset (P22, 2016) and (P10, 2016). However, a public sector interviewee involved in Environment projects was of the view that oversight is conducted by the investors in the project (P9, 2016).

Other interviewees took accountability to mean local benchmarking exercises. At certain dates the services of the PPP are benchmarked against comparable evidence from similar contracts to ensure the cost of the service is reasonable (P10, 2016). This exercise is carried out by the private sector and reported to the NDFA, but as a private sector interviewee who works on the Convention Centre, a stage 2 PPP project, said:

> I don't even know if the NDFA have got that much experience in advising on that … there's a bit of ambiguity (P10, 2016)

A private sector interviewee working on Education projects discussed a benchmarking exercise that has recently been carried out on schools bundle one. The interviewee indicates that trust is paramount to this exercise to the extent that they engaged an external expert to conduct the exercise in an attempt to be as transparent as possible:

> we're responsible for conducting a benchmarking exercise … we would have to go about that in a particular way to ensure that it was transparent … the only way to benchmark effectively is to get somebody independent to do it for you … because otherwise you'd only have your own data wouldn't you? … that's how we approached that process. We got somebody who was expert UK based … to conduct a benchmarking exercise on our behalf for the authority (P12, 2016)

While it appears that there is a high level of trust in stage 2 PPPs, that is, schools bundle one and the Convention Centre, there appears to be less mutual trust in transport

projects. The TII appears to be more experienced than the NDFA in overseeing the self-reporting of the private sector, as a public sector interviewee involved in Transport projects explained:

> As more and more schemes came on … we engaged consultants … in doing periodic audits … they'd go on site and … check and test various things … self-reporting is such that [the] PPP Co are obliged to tell you if there are issues … we get annoyed … if they don't tell us an issue and they don't report it (P3, 2016)

The literature surrounding accountability is contradictory in that it states that the government should ensure that PPPs are held accountable for performance through the use of an independent scrutiniser (UNECE, 2008). However, the literature also states that trust can be built through the use of project monitoring and reporting by the private sector (Matos-Castaño, 2011), in other words, self-monitoring. The analysis of the extended study indicates that the interviewees' views of what constitutes accountability are muddled and unclear and two main issues arise. First, some interviewees believe that accountability is achieved through the preparation of performance reports for the NDFA, others believe it is through the use of an independent auditor, and others believe it is through the use of benchmarking. Second, trust in terms of accountability is significant, in so far as building trust between the public and private sectors does appear to be important to stakeholder interviewees. The NDFA has a light-touch approach to performance reports and benchmarking. However, the TII appears to be more experienced than the NDFA in overseeing performance reports, and engages in more oversight which may be construed as having less trust in the private sector's approach to self-reporting.

6.3.2 Fairness of PPP procurement

Definitions of trust in the PPP literature focus on fostering trust between the public and private sectors through the use of standards and mechanisms implemented by government (Matos-Castaño, 2011). The literature emphasises that trust is also cemented by governments encouraging transparency and fairness during project procurement and selection (Matos-Castaño, 2011). The UNECE (2008, p.31) states that the "contracting authority must work to ensure fairness in the tendering procedures for PPP to avoid discrimination", a point also reiterated by Jooste et al. (2009) who expand on this definition to state that ensuring this will avoid corruption and ensure that the selection and awarding criteria will be fair and neutral to all bidders. Jooste et al. (2009) moreover stress that the PPP unit should remain neutral and independent from the private sector, thus ensuring fairness in PPP.

During the extended study, issues of fairness outlined by the literature were found to appear within *Theme 1 Legitimacy* and *Theme 2 Capacity*. For example, *5.3.1 Lead Institutional Support* highlighted that there is a perception of a lack of transparency in the role that the NDFA plays in assessing value for money and preparing the public sector benchmark. It was concluded that the NDFA demonstrates a weak role as a decision-maker and therefore does not contribute to the legitimacy of PPP. In *5.3.2.1 Transparency*, it was found that there is a lack of transparency surrounding the decision to go down the PPP route, a lack of transparency surrounding the publication of the basis on which PPP proposals are evaluated and published, and a lack of transparency surrounding value for money testing. However, there is transparency surrounding the bidding process and interviewees believe the bidding process to be fair to those involved. There is mixed transparency in terms of feedback given to bidders at meetings with the NDFA, the reason being fear of litigation on the part of the NDFA. There is transparency in feedback given to unsuccessful bidders. In *5.3.2.2 Legal and regulatory framework* it was found that the involvement of the NDFA in the process and its flexible approach to applying rules along with the fragmented approach to updating guidelines and contracts weakens the legitimacy of PPP. In *6.2.4 Quality of projects* it was found that there is mixed evidence of risk transfer being achieved, with some projects performing within or above expectations and others being problematic. The uncertainty about risk allocation between partners and the costing of risk transfer adversely affected the accuracy and reliability of value for money calculations, and suggests that the role of risk transfer in building PPP capacity is weak. The following section will examine further some of the issues which have been said to contribute to trust.

6.3.3 Complaints and arbitration

The literature states that trust between the public and private sectors is enhanced through providing an "avenue for complaint to an independent tribunal" (Jooste et al., 2009, p.11). It is generally suggested that initially parties should try to solve issues themselves but there should be resort to "amicable resolution, arbitration, and court in the last instance" (Matos-Castaño, 2011, p.49).

During the extended study conducted in 2016 interviewees spoke of the complaints and arbitration system in place for Irish PPPs. Specifically, there is a dispute resolution procedure (DRP) where an independent arbritrar such as the Institute of Engineers of Ireland is appointed to hear a dispute (P3, 2016) (P4, 2016). As one interviewee pointed out, parties tend to try to solve disputes between the parties as the instigation of a DRP takes the outcome

out of their hands (P12, 2016). In the event of this failing, there is redress to the courts, as happened with Grangegorman.

In line with the literature there is an avenue for complaint and systems in place to instigate arbitration and redress to the courts if necessary. In this context there does appear to be available a key component for building and maintaining trust between the public and private sector.

Conclusion of Theme 3 Trust

The literature on institutional theory was examined in chapter 3 and in the context of PPP it was found that more sustainable PPPs were ones where the government understood the complexity of PPP and where institutional capacity was built. The data collected during the study was analysed using institutional theory and themes were created from the data. These include legitimacy, capacity and trust which can be used to gauge the sustainability of the policy, similar to the frameworks proposed by Matos-Castaño et al. (2012) and Jooste et al. (2009). Theme 3 examines this theme further which centres on fostering trust between the public and private sectors (Matos-Castaño et al., 2012) and the contribution of this to the sustainability of this policy.

The available data on *Theme 3 Trust* was divided into sub-themes during the data analysis. In *6.3.1 PPP programme accountability* it was found that there was overlap here with *5.3.2.1 Transparency*. Transparency is of the utmost importance for public accountability (Aziz, 2007; Li et al., 2005a). It is impossible to comment definitely on accountability due to the lack of available information of Irish PPPs but, and as one interviewee stated, there seems to be little scrutiny of PPP (P10, 2016). Even though there is a certain level of trust between the public and private sectors, the lack of transparency of PPP and the inability of the taxpayer to examine the value for money of PPP suggest the contribution of PPP programme accountability to building trust is very weak.

In *6.3.2 Fairness of PPP procurement* it was also noted that there was overlap with *Theme 1 Legitimacy* and *Theme 2 Capacity*. For example, *Theme 1.1 Lead Institutional Support* highlighted issues concerning the lack of transparency of the role that the NDFA plays in assessing value for money and preparing the PSB. In *5.3.2.1 Transparency* concerns were noted surrounding decisions to go down the PPP route, a lack of transparency surrounding the publication of the basis on which PPP proposals were evaluated and published, and a lack of transparency surrounding value for money testing. In *5.3.2.2 Legal and regulatory framework* there were concerns surrounding the involvement of the NDFA

and its flexible approach to applying rules along with the fragmented approach to updating guidelines and contracts. In *6.2.4 Quality of projects*, there were concerns surrounding risk transfer and project performance. While some projects seem to be performing within or above expectations others seem problematic. These issues are out of line with the literature which emphasises the importance of encouraging trust between the public and private sectors and cementing transparency and fairness in procurement (Matos-Castaño et al., 2012). In *6.3.3 Complaints and arbitration* the study found that there is indeed an avenue for complaint together with systems to instigate arbitration and redress to the courts if necessary. This is in line with the recommendations in the literature (Jooste et al., 2009; Matos-Castaño, 2011).

Overall, in the context of trust, problems are notable surrounding transparency, the legal and regulatory framework and risk transfer. These issues create a climate of doubt between the public and private sector not to mention the civic sector and the taxpayer in particular, which can lead to a lack of trust in PPP. While trust is an independent element in the literature data from the study on trust was limited on account of the study design. As discussed in *4.4.1 Data analysis used in this research study* the extended study did include interviews with trade unions but no other "civic sector" group was included. The main concentration was on interviews with the public sector and private sector who had considerable knowledge of a wide range of aspects associated with Irish PPPs. The implications of this are discussed further in *7.6 Limitations of the study and avenues for further inquiry*.

The next chapter evaluates and conceptualises the research findings from the analysis carried out in chapters 5 and 6. It discusses these findings in relation to the research literature reviewed in chapters 2 and 3 and emphasises novel findings and contributions to the literature.

Chapter 7 – Conclusions, Implications and Limitations

7.1 Introduction

The purpose of this chapter is to provide a general conclusion to the thesis with a focus on the research questions initially posed.

The chapter is divided into seven main sections. Section 7.2 revisits the theoretical framework, the research questions and the case study. The theoretical underpinning of this study and the development of the research questions are summarised. The research case is restated indicating its development from the gaps identified in the literature, the findings of the pilot study of 2013 and early 2016 to the extended study which was conducted during 2016. Section 7.3 summarises the core findings of the study in relation to the research questions. Section 7.4 focuses on the novel findings and the contributions this study makes to the literature. Section 7.5 outlines the policy implications of this research. Finally, section 7.6 discusses the limitations of the study and maps out avenues for further inquiry.

It is useful to revisit the structure of the thesis at this stage. Chapter 1 outlined the structure of the thesis. Chapter 2 discussed the literature in relation to the evolution of PPP in Ireland and identified contributions which question the sustainability of this policy. Chapter 3 discussed the literature on institutional theory and policy transfer theory and put forward a framework which assisted in examining the sustainability of PPP in Ireland. Chapter 4 discussed the choice of research method used in the thesis and the ontological, epistemological, and philosophical positions that were chosen for this research. It also outlined the pilot study which was conducted early on in the research. Chapters 5 and 6 provided an analysis of the data gathered during the extended study in 2016 and analysed them under the themes of legitimacy, capacity and trust.

7.2 The Theoretical Framework, the Research Questions and the Case Study

This section outlines the development of the theoretical framework applied in this research. The research utilises policy transfer theory. Policy transfer causes organisations to mimic others (Dolowitz and Marsh, 1996). Early transfer studies focused on voluntary transfer which can occur where there is dissatisfaction with the *status quo* or perceived policy failure more generally. More recent studies have explored coercive transfer which occurs when supra-national institutions, for example, the IMF, force the adoption of a policy (Dolowitz and Marsh, 1996). This research applies policy transfer theory, in particular, the

Dolowitz and Marsh (1996 and 2000) framework to consider the process of PPP policy transfer in Ireland. Specifically, the study investigates whether PPP was adopted originally on a voluntary or coercive basis and whether its ongoing use is voluntary or coercive. This has implications for the sustainability of PPP in Ireland.

Institutional theory is also utilised, as research into the impacts of institutional arrangements on the implementation of PPP has found that successful institutional environments are ones where governments understand the complexity of PPPs (Willems and Van Dooren, 2011). For example, research found that the first generation of PPPs in the Netherlands in the early 1990s suffered from financial and structural problems. The second generation of PPPs came about after the government assessed international experience of PPPs, evaluated this and assessed the conditions necessary for a successful partnership leading to political and public buy-in (Matos-Castaño et al., 2014). Lessons were learned and institutional change came about with the development of revised PPP policy, guidelines and procedures. This research applies institutional theory to examine the sustainability of PPP in Ireland. The next sections position policy transfer theory and institutional theory and their use in this research to fine tune the research questions.

7.2.1 The Theoretical Framework using Policy Transfer theory

Chapter 3 charted policy transfer theory and its application in examining the manner in which new policies are adopted by countries. Policy transfer can increase the "effectiveness of government operations" (Marsh and Sharman, 2009, p.281) and help organisations gain legitimacy (Connolly et al., 2009). Research has found that cross-national policy transfer is not necessarily "rational, mechanical or automatic" as policy-makers operate within "bounded" contexts as a result of a lack of resources, ambiguous goals and a lack of understanding of imported policies (Dolowitz and Medearis, 2009, p.686). This has led to the introduction of further categories within the broad categories of voluntary and coercive transfer (Dolowitz and Marsh, 1996). As regards coercive policy transfer the literature has distinguished direct and indirect coercive forces (Dolowitz and Marsh, 1996). Research has found that a country can be indirectly pushed towards policy transfer if political actors perceive it as falling behind neighbours or competitors (Keating et al., 2012). It has also been found that where similarities in policy between countries can be explained by policy transfer there may also be policy learning (Keating et al. 2012). Overall, the literature on policy transfer tends to be "process oriented, focusing on how, when, and why adopters use diffused information rather than on networks or patterns of diffusion" (Mossberger and Wolman, 2003, p.429). The Dolowitz and Marsh (1996 and 2000) framework adapted by O'Dolan and Rye

(2012) reflects this and elements of it have been used in this research to analyse PPP policy transfer in Ireland.

3.2.1 Policy Transfer Theory: Dolowitz and Marsh (1996 and 2000) framework examines the evolution of the Dolowitz and Marsh framework and its adaption by O'Dolan and Rye (2012), outlined earlier in Table 3.1. Table 7.1 lists the policy transfer questions (based on O'Dolan and Rye (2012)) regarding the adoption of a policy:

Table 7.1: Policy Transfer Questions
Who is involved in the policy transfer process?
What policies are transferred?
Why do actors engage in policy transfer?
From where are the lessons drawn?
What are the different degrees of transfer?
What restricts or facilitates the policy transfer process?
How is the process of policy transfer related to policy "success" or "failure"?

In particular, this study examined the rationale as to why Ireland adopted the PPP policy and the extent of the influence which policy transfer has had on PPP adoption in Ireland. Before the findings of this analysis are discussed further, the second main component of the study's theoretical framework will be summarised.

7.2.2 The Theoretical Framework using Institutional theory

There is a strong rationale for combining policy transfer and institutional theories (Radaelli, 2000) and chapter 3 discussed aspects of institutional theory. In particular, the last question on the Dolowitz and Marsh (1996 and 2000) framework focuses on the process of policy transfer and how it is related to policy "success" or "failure" and this led the researcher to investigate institutional theory as a means for examining the success or sustainability of the adoption of PPP in Ireland.

Institutional theory is premised on the assumption that organisations operate in an institutional environment which influences their actions (Matos-Castaño et al., 2014). Institutional theory assume that pressure to conform to a set of expectations is exerted by external and internal influences on states and state organisations, whereby compliance with these expectations allows them to gain organisational legitimacy and secure "access to resources while securing long-term survival" (Brignall and Modell 2000, p.288).

Organisational structures, policies and procedures stem from social expectations and "myth" about what is socially and economically acceptable such as private sector efficiency which are rationalised and gain legitimacy (Khadaroo, 2005, p.72). DiMaggio and Powell (1983) use the term "isomorphism" to explain the tendency for public and private organisations to adopt similar rules and routines. They describe three types of institutional isomorphism – coercive, mimetic and normative. Connolly et al. (2009, p.14) state that in the context of institutional isomorphism, "coercion" can explain the "manner in which PPPs were introduced in the UK".

This research has hypothesised that successful institutional environments where governments understand the complexity arising within PPPs (Willems and Van Dooren, 2011) will foster more sustainable and transparent PPP arrangements. PPPs require a variety of new types of institutional capacity (Jooste et al., 2009), and research has also shown how shortcomings in the institutional setting can lead to problems with the performance of PPPs, such as a lack of transparency and regulatory safeguards (Matos-Castaño et al., 2014). Creating an enabling environment for PPPs requires a combination of institutional creation and institutional change, a form of institutional isomorphism. In some cases, governments have borrowed PFI policy from other countries but have failed to change the institutional environment (Matos-Castaño et al., 2014), or borrowed policy in a fragmented nature, leading to uncoordinated policies (Johnston, 2010) with weak overall policy performance. There is no one-size-fits-all institutional framework. Success in this area is usually path-dependent and relates to the ability of policy-makers to adapt institutional forms, thus creating legitimacy, trust and capacity in the adoption of PPPs (Matos-Castaño et al. 2014).

7.2.3 The Research questions and the Case Study

Both policy transfer theory and institutional theory have helped structure the ideas which underpin the research questions in this study. One core assumption is that policy adoption is likely to be more successful and sustainable if it is adopted voluntarily and also if policy learning takes place. This led to the following research questions (RQ) being examined in this study:

RQ 1: What are the reasons for the adoption of the PPP policy and its continued use in Ireland?

RQ 2: What is the extent of the influence of policy transfer on PPP adoption in Ireland?

The literature review on institutional theory highlighted the lack of research in Ireland into the success or otherwise of the adoption of PPP in Ireland and this was identified as a gap in the literature. This led to the final research question (RQ) being examined in this study:

RQ 3: What is the extent to which institutional environments have been adapted to enable a sustainable PPP policy in Ireland?

In investigating these research questions during the pilot study, as outlined in chapter 4, the existing theoretical approaches in relation to the sustainability of PPP in Ireland were expanded and a framework which specified four possible adoption patterns was developed (see Table 7.2):

Table 7.2: Patterns of PPP Adoption Framework

		Degree of Policy Transfer	
Degree of Institutional Capacity Building		**Weak**	**Strong**
	Voluntary	(3) Voluntary PT & weak institutional capacity building	(1) Voluntary PT & strong institutional capacity building
	Coercive	(4) Coercive PT & weak institutional capacity building	(2) Coercive PT & strong institutional capacity building

(Sheppard and Beck, 2016)

This framework proposes that it is likely that the most sustainable PPP environment is associated with (1), voluntary policy transfer with strong institutional capacity building, where institutional environments and institutional capacity are changed and developed to meet the challenges arising from PPP procurement (see Table 7.2). This is followed by (2), coercive policy transfer and strong institutional capacity building; (3), voluntary policy transfer and weak institutional capacity building; and (4), coercive policy transfer and weak institutional capacity building (Sheppard and Beck, 2016).

The pilot study used exploratory interviews to provide some preliminary insights into this while focusing on nine of the themes laid down in the Jooste, Levitt and Scott (2009) framework. In the preliminary analysis it was suggested that policy transfer was initially largely voluntary but latterly became coercive and this affected attitudes toward PPP. Regarding the nine factors examined – supportive legal framework, political commitment, buy-in from key constituents, good public sector knowledge of PPPs, a PPP unit, measures to coordinate deal flow, programme transparency, ensuring the quality of projects and implementing independent oversight - it was found that not all these conditions had been met. There was evidence of the development of a supportive and comprehensive legal framework as well as improvements in public sector PPP skills which benefited from the establishment of

the central PPP policy unit in 1999 and the creation of the National Development Finance Agency (NDFA) in 2002.

More mixed results were observed in the pilot study as regards efforts to gain buy-in from key constituents. A significant problem with the coordination of deal flow was identified. It was noted that efforts had been made to address this in Ireland in 2013, with measures aimed at instilling confidence and maximising market participation in PPP following the creation of the UK's PF2 reform package.

The lack of frameworks for ensuring PPP quality appeared to be the most significant institutional barrier to the sustainability of Irish PPP. This concerns objective and systematic value for money (VFM) evaluations of existing and future deals, which seem to be hampered by fragmentation and a lack of detailed cost and return data which allegedly arises from the commercial confidentiality needs of private participants. Uncertainty about risk allocation between partners and the costing of risk transfer seemed to affect adversely the accuracy and reliability of VFM calculation.

Major difficulties in the sustainability of Irish PPPs also arise from lack of transparency and poor oversight. Government documents and interviewees during the pilot study highlighted problems in obtaining financial data on operating costs and profits which would allow for a thorough assessment of existing and future projects, suggesting serious repercussions because learning about the performance of PPP projects is obstructed. This was compounded by a lack of effective independent oversight, which arose from the fragmentation of regulatory control.

The findings of the pilot study gave focus to the extended study which was conducted in 2016. The structure of the extended study is presented in chapter 4 and the approach taken to analysing the resulting data is discussed in chapters 5 and 6. The next section highlights the core findings from the data analysis carried out in chapters 5 and 6.

7.3 The core findings in relation to the research questions

This section presents the core findings relating to the research questions and utilising the literature, some elements of the pilot study and most importantly the data from the extended study carried out in 2016.

7.3.1 Research question one: What are the reasons for the adoption of the PPP policy and its continued use in Ireland?

The literature review in chapter 2 and the pilot study in chapter 4 outlined reasons for the adoption of PPP in Ireland during stage 1 PPPs (Pilot projects 1992 – 2002) as well as the subsequent reliance on this procurement approach in stage 2 PPPs (Pre-crisis 2003 – 2008). The extended study conducted in 2016 (presented in chapters 5 and 6) indicates that the motivations for the continued use of PPP in stage 3 PPPs (Post-crisis 2012 onwards) have evolved from those initially given and this is discussed in this section.

Chapter 2 discussed some of the early motivations for the introduction of stage 1 PPPs into Ireland. One of the reasons was to fill the infrastructure gap which existed at the time. This gap came about from the curtailment of the capital programme followed by a period of rapid economic expansion. Awareness of infrastructure need was coupled with a concern about the prospect of reduced investment by the EU and domestic fiscal constraints in the form of the Maastricht Treaty convergence criteria, imposed by membership of the single European currency. However, chapter 2 indicated that in the 1990s Ireland's budget deficit never went above 3%, and the ratio of gross government debt to GDP did not exceed 60%, the stipulations imposed by the EU. Nonetheless, Ireland pursued the PPP programme despite being fiscally healthy and leaving no immediate need for the private financing of infrastructure. This suggests that the introduction of PPP was rolled out on a voluntary basis with motives other than economic pressures. This point is expanded further in research question two which examines the adoption of PPP in the context of policy transfer theory.

Chapter 2 explored other reasons for the introduction of PPP. These included an ideological predisposition in favour of private sector involvement, with the National Economic and Social Council suggesting that PPP offered benefits in terms of efficiency gains and expertise not available in the public sector. From the government's perspective PPP was found to be attractive as it allowed risk to be transferred to the private sector. Political expediency may also have played a role in the introduction of PPPs, with PPPs offering short-term political attractions to government by providing early project infrastructure and also moving capital expenditure off balance sheet. Another factor favouring PPP discussed in chapter 2 was that PPP formed part of the implementation of the economic liberalisation policies of the then Minister for Finance, Mr. Charlie McCreevy TD. This was referred to by interviewees during the extended study who noted that the implementation of PPP was favoured by the ideological leanings of that Minister for Finance. This is a theme that was alluded to in the pilot study in chapter 4 where it was suggested that the uptake of PPP in

Ireland was closely related to the introduction of new public management (NPM) reforms in the UK at the time (Sheppard and Beck, 2016), which raised the possibility that the continued use of PPP was on an indirectly coercive basis, in line with the Keating et al. (2012) analysis. This analysis and theme is discussed further in research question two which examines the influence of policy transfer on the adoption of PPP in Ireland.

However, the reasons for the continued use of PPP in Ireland, that is, stage 3 PPPs, have evolved, as found during the extended study and analysed in chapters 5 and 6. Stage 3 PPPs (Post-crisis 2012 onwards) were affected by the financial crisis, and the response to this, the domestic infrastructure stimulus programme, was announced in 2012 by the then Minster for Public Expenditure and Reform, Mr. Brendan Howlin TD (outlined in chapter 2). One of the principal motivations given for this PPP programme was to create jobs and stimulate the economy. This programme was followed by a number of new PPP measures announced in 2013 aimed at building PPP capacity. A further reason for the use of PPP during this period was given by the NDFA. The NDFA explained that it was, perhaps unsurprisingly, using the PPP programme so that borrowing would be off-balance sheet in accordance with Eurostat rules and would not affect the general government balance.

Accordingly, the research found that the reasons for the use of PPP had changed significantly by 2013, with PPP procurement no longer being a voluntarily adopted option but increasingly becoming a necessity in terms of the maintenance of adequate levels of public investment while maintaining procurement off-balance sheet. This point is developed further in research question two. However, it is worth noting that the extended study revealed that Eurostat's interpretation of the rules concerning PPP is not shared by Ireland (P22, 2016) and this raises serious concerns about risk transfer. This point is developed further in research question three.

The pilot research found that by 2013 PPP was used to create jobs and stimulate the economy. The extended study revealed, however, that there were issues surrounding the pipeline of projects and questions about encouraging smaller Irish contractors to engage with PPP. This point is again developed further in research question three.

The introduction of the domestic infrastructure stimulus programme in 2012 implies that political commitment increased substantially. Initially, PPP was considered a fashionable approach to procurement which created an image of modernisation and modernity in line with UK policy and thus helped legitimise existing government institutions. Later on it became the main (if not sole) option in dealing with a capital spending shortfall in a financial crisis and post-crisis era. However, the extended study revealed that despite this important role political

support and understanding of PPP are actually rather weak. This point is again developed further in research question three.

In summary, this study found under research question one that the reasons for the adoption of PPP as a procurement method have evolved over the different stages of PPP use in Ireland. While originally, at stage 1 level, it was argued that PPP would fill the infrastructure gap that existed at the time, this study indicates that there was no real economic need for this and that PPP was introduced at a time when Ireland was fiscally healthy and could have therefore procured necessary capital investment in a traditional manner. The more likely reason for introducing PPP, therefore, was that it fitted with the political and ideological motivations of the Minister for Finance of the day. The research notes that this Minister took an ideological stance that favoured the introduction of PPP and that he believed that private sector involvement was able to mobilise efficiencies and expertise not found in the public sector. PPP being closely linked to NPM meant that it was attractive to this Minister for Finance who looked to emulate similar policies introduced by the UK. Political expediency can also be seen as a reason for the introduction of PPPs, as PPPs offered short-term political attractions to governments by allowing for potentially early project infrastructure and also moving capital expenditure off balance sheet which reduced the risk exposure of public sector organisations at a time of increased scrutiny and citizen expectations. Also, PPP allowed risk to be transferred to the private sector. However, since the financial crisis, at stage 3 level, the reasons for the continued use of PPP have evolved. In 2012, the domestic infrastructure stimulus programme was announced and this was followed by new measures in 2013 to strengthen PPP. At this time PPP was mooted to create jobs and stimulate the economy. Simultaneously, PPP offered a possibility to keep borrowings off-balance sheet, thereby not affecting the general government balance.

In the extended study, it was found that, despite the increase importance of PPP, there are problems with the legitimacy of PPP procurement on account of weak political support and a lack of understanding of PPP by the public sector compounded by transparency problems. Also, commitment to PPP by industry and investors has been weakened by the an irregular pipeline of projects and unclear timelines. The extended study found that there were additional issues with the capacity to procure and manage PPPs. For example, the stimulus programme announced in 2012 and new measures in 2013 have had mixed results in terms of encouraging local contractors to engage in PPP. The hope of stimulating the economy through job creation by engaging local contractors is hampered by the transfer of risk from larger contractors to sub-contractors and the dominance within the Irish market of one company.

The evolution of the reasons for the adoption of PPP and its continued use are summarised in Table 7.3. This table indicates that while the reasons for the introduction of PPP were largely voluntary, reasons for its continued use are largely coercive in nature.

Table 7.3: Reasons for the adoption of PPP and its continued use

Reasons for the introduction of PPP:	**Reasons for the continued use of PPP:**
• Filling the infrastructure gap • Ideological reasons • Risk transfer • Political expediency • NPM reforms	• Create jobs and stimulate the economy • Off-balance sheet nature of PPP
Voluntary ⟷ Coercive	

The shift from voluntary adoption to a more coercive approach to the continued use of PPPs in Ireland is significant when applied to the Patterns of PPP Adoption Framework outlined in *7.2.3 The Research questions and the Case Study* above. To achieve a fuller understanding of PPP policy adoption in Ireland, elements of the Dolowitz and Marsh (1996 and 2000) framework were applied to the research to examine PPP policy transfer, and this is examined in research question two.

7.3.2 Research question two: What is the extent of the influence of policy transfer on PPP adoption in Ireland?

This research used the Patterns of PPP Adoption Framework outlined in *7.2.3 The Research questions and the Case Study* above, to establish the degree of PPP policy transfer in Ireland, and in doing so utilised elements of the Dolowitz and Marsh (1996 and 2000) framework. By identifying the motivations for PPP policy transfer together with the extent of their influence on policy transfer, classified as voluntary and coercive, as outlined in *7.2.1 The Theoretical Framework using Policy Transfer theory*, it is possible to describe in some detail of PPP policy adoption in Ireland. In doing so the research also indicated what policies were transferred and where lessons were drawn. This in turn is relevant to the subsequent question about the sustainability of PPP in Ireland.

The Patterns of PPP Adoption Framework establishes the degree of policy transfer and asked who was involved in the PPP policy transfer in Ireland. This study found that the then Minister for Finance, Mr. Charlie McCreevy TD introduced the policy into Ireland. The policy continued through the domestic infrastructure stimulus programme announced in 2012

by the then Minster for Public Expenditure and Reform, Mr. Brendan Howlin TD. As discussed in RQ 1 above, the research found that PPP policy transfer was initially voluntary, while its continued use has been coercive. Specifically, it is apparent that the decision to adopt UK-style PPP was largely voluntary in nature and coincided with a time when the country was fiscally healthy but sought to mimic the NPM reforms movement introduced in the UK. The continued use of PPP, meantime, largely took on an indirectly coercive form. For example, the pilot study found that for local authorities the adoption of PPP was mostly coercive and that the Department of the Environment was biased in favour of PPP (Sheppard and Beck, 2016). Also, the pilot study suggested that industry expectations created a coercive element with regard to the evaluation of PPP schemes and it was during this time (stage 1 PPPs and stage 2 PPPs) that commercial confidentiality was forced on the public by industry (Sheppard and Beck, 2016).

In analysing whether the decision to continue to use PPP was voluntary or coercive, the extended study found that the use of PPP post crisis in stage 3 PPPs was directly coercive. The extended study identified areas which weaken the legitimacy of PPP. For example, there is a lack of transparency surrounding how the decision is made on which projects are put forward for PPP, the NDFA's VFM testing of projects and how the public sector benchmark is calculated. Issues with transparency and a failure to demonstrate VFM to the taxpayer have created a perception that there is a culture of secrecy in the public sector around PPP. This coupled with weak political support for PPP, weak political commitment to PPP and a legal and regulatory system which has a flexible approach to applying rules and a fragmented approach to updating guidelines and contracts. All of this makes it unlikely that the ongoing use of PPP as a procurement method is voluntary. Indeed, as outlined in research question one above, the reasons underpinning the domestic infrastructure stimulus programme in 2012 which focuses on job creation and economic stimulus possess all of the features to suggest that the use of PPP post crisis in stage 3 PPPs is directly coercive. If this is indeed the case and continues to be so in the future, then this has serious implications for the sustainability of PPP, a point which is developed further in research question three.

The Patterns of PPP Adoption Framework establishes the degree and nature of policy transfer by analysing what policies were transferred as Irish PPPs evolved. The pilot study compared PPP policy guidelines produced in the UK and Ireland and this research found a number of areas of similarity between Ireland and the UK. This included PPP policy guidelines on PPP project implementation; training for public and private sectors; availability of expertise through a procurement unit; allocation of risk between the parties; and the

composition of the public sector comparator. This type of policy imitation repeated itself in later years. Similarities could be also found between the announcements in Ireland and the reform measures of PF2 introduced in the UK by HM Treasury in December 2012 and also between the approaches taken to risk transfer in a C&AG report (2012) and an important HM Treasury report (2012). The research thus found a high degree of mimicry between Ireland and the UK suggesting that Ireland was influenced by the UK and that it attempted to legitimise PPP from this PPP pioneer by directly borrowing policy.

The Patterns of PPP Adoption Framework analyses where lessons were drawn, and this is important as it establishes if policy learning has taken place, as well as whether the policy has evolved or matured, and whether it is tailored to the unique environment in which it is utilised, all of which enhances the capacity to sustain and manage PPP. The pilot study found evidence of policy transfer in that Ireland adopted a UK-style approach to PPP procurement (Sheppard and Beck, 2016). The extended study found that Ireland initially drew mainly on the experience of the UK, and the research indicates that mimetic isomorphism has taken place particularly in the case of the UK public sector comparator. However, more recently, Irish public sector departments and the Irish PPP steering committee are learning from each other. The research also found that public sector learning from countries other than from the UK was limited. Learning was not confined to the public sector as the private sector has also learnt from its past experience of PPP and also from the NDFA.

In summary, the research used The Patterns of PPP Adoption Framework to identify the degree of PPP policy transfer in Ireland and in doing so utilised elements of the Dolowitz and Marsh (1996 and 2000) framework. The results of this part of the study indicated that the introduction of the policy was initially voluntary. However, as its use continued, this changed from indirectly coercive to a directly coercive pattern. The research also found that Ireland borrowed significantly from the UK PFI policy, a policy which has proven to have serious flaws in terms of sustainability, as discussed further in research question three. The research also found that patterns of policy transfer have evolved as Ireland started relying on learning from previous indigenous projects when implementing stage 3 PPP projects. Indeed the research has found that the European PPP Expert Centre (EPEC) considers the NDFA to be a leader of PPP units and it appears that policy transfer is now taking place from Ireland to elsewhere. This illustrates a maturity in the policy and this point is developed further in *7.4 Novel findings and contributions*.

The Patterns of PPP Adoption Framework utilised elements of the final section of the Dolowitz and Marsh (1996 and 2000) framework to consider how the process of policy

transfer is related to the success or failure of the policy. As outlined in chapter 3, it was not possible to examine PPP success from a financial point of view as this information is not publicly available. Instead the Patterns of PPP Adoption Framework used elements of the Jooste, Levitt and Scott (2009) framework to examine the sustainability of PPP in Ireland and the findings from this are outlined in research question three.

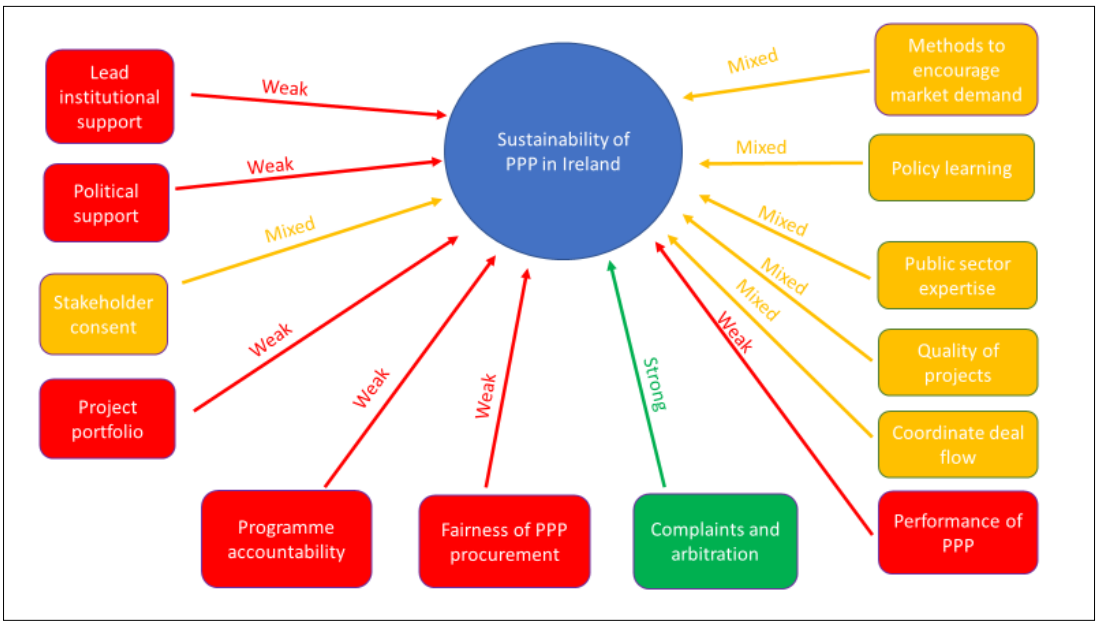
7.3.3 Research question three: What is the extent to which institutional environments have been adapted to enable a sustainable PPP policy in Ireland?

Jooste, Levitt and Scott (2009) proposed a theoretical framework for the actions needed to ensure the sustainable implementation of PPP projects and grouped them under the three main objectives of a successful PPP implementation: building capacity, obtaining legitimacy and balancing interests. However, in this research the term trust, not balancing interests, is used as has been adopted by other researchers (Matos-Castaño et al., 2012; Verhoest et al., 2015). The pilot study outlined in chapter 4 applied elements of the Jooste, Levitt and Scott (2009) framework to the document analysis and initial exploratory interviews. This part of the research focused on nine themes: supportive legal framework, political commitment, buy-in from key constituents, good public sector knowledge of PPPs, a PPP unit, themes to coordinate deal flow, programme transparency, and ensuring the quality of projects while implementing independent oversight.

The results of the pilot study formed the basis for the expansion of the theoretical approaches used in the development of the Patterns of PPP Adoption Framework outlined in *7.2.3 The Research questions and the Case Study* above. When the study was extended in 2016, the questions asked of interviewees were again based on the Jooste, Levitt and Scott (2009) framework with the addition of findings from the pilot project. Data was analysed under the three broad headings of legitimacy, capacity and trust, all of which contribute to the sustainability of PPP.

The results of the research carried out during the extended study are summarised in Figure 7.1. The research found that in terms of legitimacy, stakeholder consent was mixed and lead institutional support, political support and the provision of a project portfolio were all weak. In terms of capacity, the research found that methods to encourage market demand, policy learning, public sector expertise, quality of projects and a coordinated deal flow were all mixed but the performance of PPP was weak. The research found that in terms of trust, the provision of a complaints and arbitration process was strong but programme accountability and fairness of PPP procurement were weak.

Figure 7.1: Sustainability of PPP in Ireland



The following sections discuss each of the findings of the research under the main headings of legitimacy, capacity and trust.

Legitimacy

The research has found that in Ireland the contribution of stakeholder consent to the legitimacy of PPP is mixed and the contribution of the lead institutional support, political support and project portfolio is weak. These points are explained in more detail.

Lead Institutional support makes a weak contribution to the legitimacy of PPP:

The research found that the roles of the PPP unit, the NDFA in the case of Ireland, in many aspects is similar to those identified in the literature for similar organisations. In other aspects these roles have evolved from those identified in the literature and in some aspects there are new roles not identified in the literature. The pilot study found that the NDFA did not yet fulfil all the functions it ideally should pursue (Sheppard and Beck, 2016). When the study was extended in 2016, it was found that the NDFA plays a strong role as a PPP adviser and expert, a role which should have a positive effect on legitimacy. However, it cannot be clearly confirmed what role the NDFA plays in providing technical advice and support for projects as there is a lack of transparency regarding the NDFA's value for money testing of projects, while the true role of expert and adviser also cannot be investigated.

Overall, the NDFA seems to occupy a weak role as a decision-maker and it is questionable whether it has the power to make well-reasoned decisions in complex PPP

contexts. Also, the lack of transparency in the NDFA's approach to assessing value for money and preparing the public sector benchmark (PSB) casts doubt on the true value for money of the PPPs it supports. The NDFA, therefore, can be said to make no clearly significant contribution to the legitimacy of PPP.

Interviewee views as to whether the NDFA is a policy-maker are mixed, with the senior public sector interviewee involved in PPP decision-making and an interviewee involved in projects procured before the financial crisis saying that it is not a policy-maker or developer, while those involved in post-crisis PPP are more willing to attribute this role to the NDFA. Therefore, the role of the NDFA in this regard is unclear, and again this suggests that it does not make a clearly significant contribution to the legitimacy of PPP.

The NDFA occupies a strong role as a promoter of PPP, a role also highlighted by EPEC. This role does not explicitly contribute to the legitimacy of PPP, as was highlighted by interviewees. Interviewees did not identify the NDFA as a regulatory body for PPP and this can be said to weaken the role of the NDFA as well as legitimacy of PPP in general.

The NDFA is instrumental in keeping the market informed and reassuring the market about the continuation of the PPP programme. However, the research conducted in 2016 indicates that the role of the NDFA has evolved from a disseminator of knowledge, market consultant and project driver to a market driver during the financial crisis. This helped to stimulate the market and is indicative of a new role not discussed in the literature. However, this new role is limited in its reach which is demonstrated by the fact that even though a new PPP pipeline has been announced, new projects have only slowly been followed through. Despite the NDFA being assigned a role as market driver by government, its role is still hampered by political whims and short-termism. This lessens effectiveness of the NDFA as market driver and PPP promoter which in turn weakens its legitimacy and that of the PPP programme in Ireland. The failure to follow through with a deal flow also weakens capacity building and is discussed further below.

The role of the NDFA is largely centred on being a supporter of PPP. This weakens its overall role and the role it could play in contributing to the legitimacy of PPP in Ireland. According to interviewees, the NDFA is rigid, bureaucratic and process-driven, a role not identified in the literature. This makes it difficult for the NDFA to be seen as playing an important role for PPP and is also confusing for the private sector. The NDFA also exhibits contradictions and inherent tensions such as wishing to encourage private sector participation by having a light touch regulation, but in so doing it may be short-changing the taxpaying

public. The lack of consideration of the taxpayer was illustrated by the lack of reference to this stakeholder group by interviewees. This has implications for future generations of taxpayers who will be left to pay for PPPs which potentially are not value for money, with value for money being difficult to assess due to a lack of transparency in the procurement process. Overall, the research has found that the NDFA's contribution to the legitimacy of PPP is weak.

Political support makes a weak contribution to the legitimacy of PPP:

The pilot study indicated that there was a consistent legal framework in place to support the implementation of PPP coupled with strong political support (Sheppard and Beck, 2016). However, when the study was extended in 2016, it was found that there was weak political support for, and commitment to, PPP with a lack of transparency surrounding PPP, a legal and regulatory system which has a flexible approach to applying rules, and a fragmented approach to updating guidelines and contracts.

The pilot study found major difficulties in the sustainability of Irish PPPs resulting from a lack of transparency and poor oversight (Sheppard and Beck, 2016). When the study was extended in 2016, it was confirmed that there was a lack of transparency surrounding how the decision is made on which projects are put forward for PPP and how the subsequent VFM tests are carried out. This has resulted in speculation on how decisions are made, a failure to demonstrate VFM to the taxpayer, a culture of secrecy in the public sector and suspicion about the calculation of the PSB. It was noted in research question two that, in the context of policy transfer, Ireland borrowed heavily from UK PFI policy. This is a form of mimetic isomorphism and this research has shown that problems with the use of the public sector comparator in the UK and the suspicion surrounding it arising from a lack of transparency are mimicked in Ireland as there has been a failure to draw relevant lessons.

This research study found that there are mixed patterns in terms of the transparency of the bidding process. Jooste, Levitt and Scott (2009), Matos-Castaño et al. (2012) and Matos-Castaño et al. (2014) argue that procurement and negotiations should be conducted in a transparent way, as should the awarding of projects. The research found that there is transparency surrounding the bidding process itself and interviewees believe the bidding process to be fair to those involved. However, there is no transparency for the taxpayer and there is mixed transparency in terms of feedback given to bidders at meetings with the NDFA. There is some transparency in feedback given to unsuccessful bidders and there is mixed transparency in terms of feedback given to other bidders. This is due to the NDFA's wish to be seen to be fair while simultaneously trying to avoid litigation from the bidders involved. In the bidding process, transparency can increase or decrease. If it decreases, bidders may feel

the process is not open and transparent and this may interfere with their inclination to bid. If transparency increases, however, bidders may feel that there is too much transparency and they may be deterred from bidding as they do not wish crucial information from their bids to be disclosed.

The pilot study found that evaluations of VFM assessments are not in the public domain because of commercial sensitivity issues, resulting in Irish PPP not fully meeting the literature's requirement for sustainability (Sheppard and Beck, 2016). The extended study confirmed that there was a lack of transparency surrounding the publication of PPP contract information, as recommended by Khadaroo (2008), Boardman and Vining (2012) and Vining and Boardman (2008a). This is also out of line with the Irish Committee of Public Accounts report on PPP in 2007 which recommended that Ireland adopt a similar approach to Victoria, Australia and British Columbia, Canada in making PPP contract information publicly available (Dáil Éireann, 2007). Interviewees suggested that there should be transparency surrounding the publication of PPP contract information so taxpayers could evaluate value for money assessments. As the market is very competitive, however, demands for transparency seem to have been overridden by commercial sensitivity and several public and private sector interviewees expressed concern that the publication of commercially sensitive information would interfere with the workings of the market. Transparency surrounding the publication of PPP data increases overall transparency, which has the potential of attracting greater political support and ultimately increasing legitimacy. The consequence of a lack of transparency surrounding contract information is that it impedes oversight and leads to suspicion, thus weakening the overall legitimacy of PPP procurement.

The only sectors to have carried out a post-project review which has been published in the public domain are the Courts Service and, to a limited extent, the C&AGs' value for money review of the Pilot Schools Project. It is the intention of the Department of Education and Skills to carry out a post-project review of the Pilot Schools Bundle but the publication of costings was not discussed as part of this review. In terms of Primary Care, a post-project review will be carried out but it will be an internal review and it is not known if it will be published.

The Criminal Courts of Justice (CCJ) complex is a one-off PPP project and there was eagerness by project participants to demonstrate VFM. However, the Schools and Primary Care projects are long-term projects and there seems to be a reluctance to publish any post-project reviews.

Where there is transparency this has the potential to increase the likelihood of

legitimacy, as in the case of the CCJ. In the case of the Schools bundles and the Primary Care projects where no post-project review has been carried out, the failure to do so leaves a question mark over their value for money.

The withholding of contract information due to commercial sensitivity may be a legacy from the UK. UK PFI projects have frequently been criticised for a similar lack of transparency and lack of external scrutiny (Shaoul et al., 2009). Other countries, such as Canada and Australia, seem to be not as concerned about commercial sensitivity and find ways to circumvent it.

The pilot study revealed evidence of policy transfer in that Ireland adopted a UK-style approach to PPP (Sheppard and Beck, 2016) and it appeared that this strong transfer of the UK policy occurred without reference to lessons learnt elsewhere. Ireland has drawn mainly on the experience of the UK in implementing PPP. This suggests that mimetic isomorphism has taken place with little adaptation of the policy to local conditions and little learning from the problems encountered by UK PFI policy, particularly with regard to value for money calculations. The research found that, in the view of a majority of interviewees in Ireland, this lack of transparency has weakened the legitimacy of PPP, causing serious concern over the long-term sustainability of PPP in Ireland.

This research found that there has been very little evolution of PPP contracts, which is again indicative of a weak institutional environment not conducive to strengthening legitimacy. The involvement of the NDFA in the process and its flexible approach to applying rules along with the fragmented approach to updating guidelines and contracts affect the legitimacy of PPP, making the overall contribution of the legal and regulatory framework to the legitimacy of PPP at least a mixed one.

The extended study found that the PPP programme stalled during the financial crisis as projects were cancelled. When the PPP programme was resumed post crisis, political commitment to PPP was revived, albeit in a very weak form, without a political champion and in a less ideological and more pragmatic way. The research found that political commitment to PPP is weakened by the ongoing controversy surrounding the on-off balance sheet debate, by weak political support, and, by a lack of understanding of PPP among politicians. Also noted is a short political cycle which is not suited to the slow nature of PPP delivery. This is coupled with uncertain and confusing political planning and decision-making, and political risks which add ambiguity to making long-term commitments. This again can be seen as adversely affecting the legitimacy of Irish PPP, which seems to be seen as an expedient means for procuring infrastructure at a time of ongoing fiscal constraint, without there being the political will to turn it into an effective and sustainable approach to public procurement.

Stakeholder buy-in makes a mixed contribution to the legitimacy of PPP:

The pilot study found that buy-in from key PPP stakeholders was mixed (Sheppard and Beck, 2016). Buy-in seems to have been fairly broad in the early stages, with support being articulated by the employers' association, industry bodies and trade unions. By the mid to late 2000s, this had partially eroded, with trade unions and community groups voicing concerns over inadequate consultation. When the study was extended in 2016, it was found that stakeholder engagement differs across PPP sectors, with the type of stakeholder, and during different stages of the PPP process. There is more stakeholder engagement in Justice and Primary Care projects than in Education projects. This relates directly to the fact that more importance is given to legitimacy of stakeholder groups in the two sectors of Primary Care and Justice compared with Education.

The research found that within stakeholder groups consultation is stronger with clinicians, judges and local communities affected by schools and Primary Care projects. Consultation is mixed with school principals and weak with teaching staff and trade unions. When analysed by stage of PPP implementation, consultation is stronger with school principals at the operational stage than at the design and construction stages. Also, more intense consultation takes place with local communities affected by Education and Primary Care projects at the design and operational stages than with those affected by the Convention Centre at the operational stage. This suggests that more importance is put on legitimising PPP for local communities affected more directly by PPPs such as Education and Primary Care projects than those adjacent to a one-off project such as the Convention Centre which perhaps has less impact on the local community and its members. It also suggests that more importance is put on legitimising PPP for those stakeholder groups that are more influential, such as clinicians and judges, than for schoolteachers and trade unions. Consultation with school principals is mixed at the design and construction stages but strengthens at the operational stage. However, the real power of decision-making at the operational stage lies with the operations and maintenance (O&M) company and the NDFA, and school principals have very little influence at this stage. Where school principals seek influence at the design and construction stage, their involvement is mixed.

There is a lack of importance given to the taxpayer which is evidenced by the lack of discussion by interviewees of this major stakeholder in PPP. There seems to be a correlation here between the lack of importance given to the taxpayer and the lack of transparency highlighted earlier. This issue centres on the publication of PPP contract information which would be essential for the taxpayer to make a value for money assessment. These observations

seem to indicate that the taxpayer is very low down the stakeholder pecking order. Evidently, legitimising PPP to the taxpayer is not seen as important at this stage of Irish PPP development.

Overall, the research found that the strength of stakeholder consent and how it contributes to the legitimacy of PPP is mixed. This is concerning, as consultation with stakeholders clarifies expectations, prevents misunderstandings and mitigates against unrealistic expectations of what PPP can achieve. Consultation can also lead to a more transparent and more successful PPP process.

Project portfolio makes a weak contribution to the legitimacy of PPP:

Ireland suffered reputational damage in the PPP market post crisis as a result of cancelling projects, and there was very little PPP activity from 2008 to 2012. A pipeline of projects was announced in 2012, a second phase in 2014 and a third phase in the Infrastructure and Capital Investment Plan 2016 – 2021. As noted earlier, the NDFA is a market driver and is instrumental in keeping the market informed as well as reassuring the market about the continuation of the PPP programme, a factor which in theory contributes to the legitimacy of PPP. Despite these activities, there is criticism in the private sector that there is very little activity in the Irish market and that it is fragmented. There also appears to be confusion about the launch of the Social Housing bundles and new Garda station projects. The issue of Ireland being a small country arose in *6.2.1 Methods to encourage market demand* where the small scale of the Irish PPP market and the concern about the lack of contractor capacity was highlighted.

Having a strong portfolio of projects across different sectors with a clear pipeline keeps the market engaged, and a strong market contributes to the legitimacy of PPP. However, the interviewees questioned in this study indicate that despite the public sector's assertion of a pipeline of projects, the private sector considers this to be patchy, and this aspect seems to be weakening the legitimacy of PPP in Ireland.

In summary, the research has found that the contribution of stakeholder consent to the legitimacy of PPP in Ireland is mixed and the contribution of the lead institutional support as well as political support are weak. This has serious implications for the sustainability of PPP. Past research has found that problems in the institutional setting of PPP can lead to a lack of transparency, a lack of regulatory safeguards and ultimately problems with the performance of PPP. PPP requires institutional creation and adaptation as well as institutional change, and this research indicates that there are major shortcomings in this regard in Ireland.

Capacity

The research has found that in Ireland the methods used to encourage market demand, policy learning, public sector expertise, quality of projects and the coordination of deal flow of PPP and their contribution to the building of capacity of PPP is mixed and the performance of PPP in terms of regulatory oversight is weak. Each of these points is now discussed in more detail.

Methods to encourage market demand makes a mixed contribution to the capacity of PPP:

The extended study found that the cancellation of projects during the financial crisis and the subsequent loss of state credibility in the PPP market weakened Ireland's capacity to undertake PPPs. The stimulus package announced in 2012 and new measures announced in 2013 have had mixed results in terms of building capacity in PPP. The introduction of design-led PPPs with planning in place has been welcomed by the public and private sector, especially for so-called cookie-cutter PPPs and also heritage PPPs. However, there is concern that this has resulted in a lack of innovation, which is a serious concern as innovation is one of the motivating factors given for PPP.

The reduced timeframe for preparing PPP projects to the market through to contract award has not been significant enough for the private sector and the process is still seen as too long and not as attractive as other forms of procurement. The partial refund of bid costs to unsuccessful bidders in Phase 1 of the stimulus programme was welcomed by interviewees of this study but was seen more as a gesture than a significant alleviation of overall bid costs and risks. Interviewees suggested that it has not had a substantial effect on encouraging the market.

The pipeline of projects introduced in the Infrastructure and Capital Investment Plan 2016 – 2021 has been unclear and the timelines confusing for the private sector. This has implications for Ireland in terms of attracting private sector interest in PPP. Another capacity weakness identified by interviewees was the difficulty in attracting foreign companies to bid in Ireland due to the small scale of the market. International companies who are willing to bid in Ireland are at a disadvantage as they are not familiar with the bidding process.

The NDFA is trying to encourage local contractors to engage with PPP, but the transfer of risk down the line to sub-contractors is prohibitive and costly to smaller contractors. The Irish market is dominated by one company, yet local contractors need to align with larger contractors. This is a catch-22 situation as there are only three or four international companies willing to bid in Ireland, and newer entrants to the market are at a

disadvantage as those who bid regularly are familiar with the bidding process. Also, while there is some interest in the Irish market, as it is quiet at the moment, the concern is that the private sector capacity built up will diminish which will have adverse effects on the sustainability of PPP in the medium to long term. These problems result in a lack of competition in the market which is necessary for successful PPPs. Overall, Ireland remains a limited PPP market which has difficulty in supporting the build-up of PPP capacity.

Policy learning makes a mixed contribution to the capacity of PPP:

Learning from past projects and from other countries is important for building capacity in PPP. This area was addressed in research question two where it was found that Ireland borrowed significantly from UK PFI policy. UK PFI policy has proven to have serious issues of sustainability. However, policy learning on PPPs in Ireland has evolved as the country increasingly relies on drawing lessons from previous indigenous projects when implementing stage 3 PPP projects.

Public sector expertise makes a mixed contribution to the capacity of PPP:

The extended study examined different government departments and state authorities to see if a PPP unit had been set up, if there was formal PPP training and if there was a PPP champion. The research revealed mixed results. The Department of Public Expenditure and Reform (DPER) which is influential in PPP decision-making, convenes regular PPP steering meetings and appeared to be very knowledgeable about PPP. The Department of Education and Skills (DoES) has a PPP unit, and staff working there are considered to be champions of PPP. Staff at Transport Infrastructure Ireland (TII) lack formal PPP training but there is a PPP unit and a PPP champion within the authority. Despite the lack of a PPP unit, the Health Service Executive (HSE) has built up PPP knowledge and expertise through experience of various projects and it also has a positive attitude to PPP.

Results were mixed for the Grangegorman/DIT Campus Planning Team which suffers from a lack of a PPP champion. Despite receiving PPP training from the NDFA, the interviewee from that group felt that PPP is being imposed on them. Results were also mixed for the Courts Service which does have a PPP unit. There was criticism that the staff working there are biased in favour of PPP, there is a lack experience and there is no formal PPP training for staff. Results were weak for the OPW where there is no PPP unit, a lack of a PPP champion and a generally negative attitude to PPP.

It has been argued that specialised public sector capacity will create an environment where both the public and private sectors have confidence to invest and cooperate together (Matos-Castaño, 2011) and this will lead to a sustainable environment in which for PPP to

flourish. Specialised expertise to develop and operate PPP infrastructure has been implemented in DPER, the DoES, the TII and the HSE but is mixed for the Courts Service and the Grangegorman/DIT Campus Planning Team and weak in the OPW.

PPP units have been established in DPER, the DoES, the TII and the Courts Service. However, PPP units have not been developed for stage 3 type PPPs in the HSE and the Grangegorman/DIT Campus Planning Team. This could also be seen as a sign of maturity of PPP in that there is enough expertise at steering committee level and in the NDFA to manage PPP without the development of unique units within government departments or state bodies. However, the fact that only Grangegorman/DIT Campus Planning Team has received public sector training indicates that there is probably no systematic decision-making in assessing and responding to these needs.

Overall, the extended study examined different government departments and state authorities to see if a PPP unit had been set up, if there was formal PPP training and if there was a PPP champion. This research revealed mixed results. In stage 3 projects, PPP units have not been developed in departments and there is a lack of expertise in some departments. This is concerning as research has shown that PPP requires new public sector capacity and specialised expertise to develop, manage and operate PPP infrastructure. This has consequences for the sustainability of the existing PPP policy in Ireland.

Quality of projects demonstrates a mixed contribution to the capacity of PPP:

The pilot study found that risk transfer and the quality of PPP projects in Ireland was sometimes poor. The small population of the country meant that road projects in particular continued to suffer from poor estimates of demand risk, with the government frequently accepting “all of the downside risk” without “benefiting from potential upside risks” (Sheppard and Beck, 2016, p.12). When the study was extended in 2016, it was found that there are considerable issues with risk transfer and VFM, which was discussed earlier in *6.2.4 Quality of projects.*

Quality in PPP projects centres on ensuring good project management and good contract management (Jooste et al., 2009). None of the interviewees of this study discussed selecting a strong consortium or the ability of government to understand the objectives of private finance, the absence of which suggests that secondary importance is attributed to these areas.

In terms of risk transfer, the extended study found that risk is not transferred in line with the approach suggested by the literature which involves transferring risk to the party best

able to manage it. The findings also suggest that there is an incentive for government to transfer as much risk as possible so as to ensure that the PPP is off-balance sheet. It appears that Ireland does not have a very sophisticated approach to risk transfer and that it is not transferring risks prudently but rather is taking an expedient approach to ensure that risk is transferred to ensure that PPP is kept off-balance sheet. This suggests that in some respects Ireland's approach to risk transfer is immature.

The issues identified regarding risk transfer raise doubts about whether PPP comprises value for money, something that cannot be proven in any case due to transparency issues. Another issue of concern discussed by interviewees is that the private sector is accepting risk and passing it down to sub-contractors. The findings of the extended study further suggest the accounting treatment of risk is being manipulated and not being managed well. This is particularly concerning in light of Eurostat's interpretation of the rules concerning PPP, which may result in some PPPs coming back on balance sheet (Kelly, 2016). The research raises serious concerns that risk management and its role in building PPP capacity is, and has remained, weak.

During the extended study, no interviewees spoke about PPP quality in terms of the how projects are selected, suggesting that this is not high on their agenda. However, study interviewees discussed quality of PPP built infrastructure in terms of the quality of materials, services and the end product, being positive overall in their discussions about the quality of the PPP built infrastructure. Given weaknesses in project management, however, it can be concluded that the quality of PPPs in building capacity is at best mixed.

Jooste et al. (2009) discuss the importance of contract clauses providing for step-in rights in the context of quality. Step-in rights are clauses in contracts that give lenders the right to take control of the contract in case of a "default on payments" (Aziz, 2007, p.924). During the extended study, interviewees confirmed that step-in clauses exist and, as such, strongly contribute to building capacity in PPP, which is in line with the recommendations of Jooste et al. (2009). Ireland, however, is behind the UK in terms of its approach to performance specifications in PPP contracts, suggesting that the contribution of performance specifications to building capacity in PPP is mixed.

Overall, the research found that there are serious concerns about Ireland's approach to risk transfer in PPP and this is particularly worrying in light of the on-off balance sheet debate. The research also found that there is a lack of discussion on how projects are selected, which is perhaps a consequence of the lack of transparency discussed earlier. Also, it was found was that Ireland is behind the UK in terms of its approach to performance specifications

in PPP projects. This suggests that the contribution of quality of projects to the capacity of PPP in Ireland is mixed.

Coordination of deal flow makes a mixed contribution to the capacity of PPP:

The pilot study found that Ireland took measures to increase the PPP deal flow post the 2008 crisis (Sheppard and Beck, 2016). This highlights the vulnerability of the PPP industry to economic shocks and indicates that Ireland did not procure PPPs on the basis of a long-term structured national infrastructure policy. It was also found that there were problems with the coordination of deal flow. It was difficult initially to attract international companies and create sufficient market interest for scalability reasons. When the study was extended in 2016, there was mixed evidence that a deal flow was contributing to PPP capacity building. This was supported by the examination of the legal and regulatory framework outlined earlier, the results of which were also found to be mixed. Thus, the examination of the NDFA outlined earlier found that its contribution to keeping the market informed was strong, as was its role as adviser and expert. However, the role of the NDFA as a promoter of PPP seemed to have a negative impact on its contribution to the legitimacy of PPP. Also, the research indicated that the pipeline of projects was found to be patchy, and despite the NDFA's endeavours to avoid bunching of projects, there was a perception the deal flow was not well coordinated.

Overall, the research found that the contribution of deal flow to the building of capacity of PPP in Ireland was mixed. This has consequences for creating and encouraging competition in the market which is an important factor in achieving VFM. National and international bidders will be less inclined to bid if there is not a clear pipeline of projects. Equally, they will be reluctant to engage in a market where the timing, scale, and nature of new projects is uncertain.

Levels of PPP performance appear to make a weak contribution to overall PPP capacity:

The pilot study found a high degree of fragmentation in the regulatory oversight of Irish PPPs (Sheppard and Beck, 2016). While this would not be problematic if each agency carried out its assessment to similar standards, current practice is likely to make performance comparisons of PPP across different areas of activity difficult. When the study was extended in 2016, it was found that there was a lack of independent oversight of performance monitoring, which suggests a serious weakness in capacity building on PPP projects. Also, the research highlighted the lack of transparency surrounding PPP projects, particularly of post-project reviews, which has serious implications for capacity building.

In summary, the research found that in Ireland, the methods used to encourage market demand, policy learning, public sector expertise, quality of projects and the coordination of deal flow of PPP and their contribution to the building of capacity of PPP is mixed, and the performance of PPP in terms of regulatory oversight is weak. This has serious implications for the sustainability of PPP as past research highlighted the importance of a new type of institutional capacity which will structure and govern PPP as a perquisite for ensuring the sustainability of PPP procurement and operation.

Trust

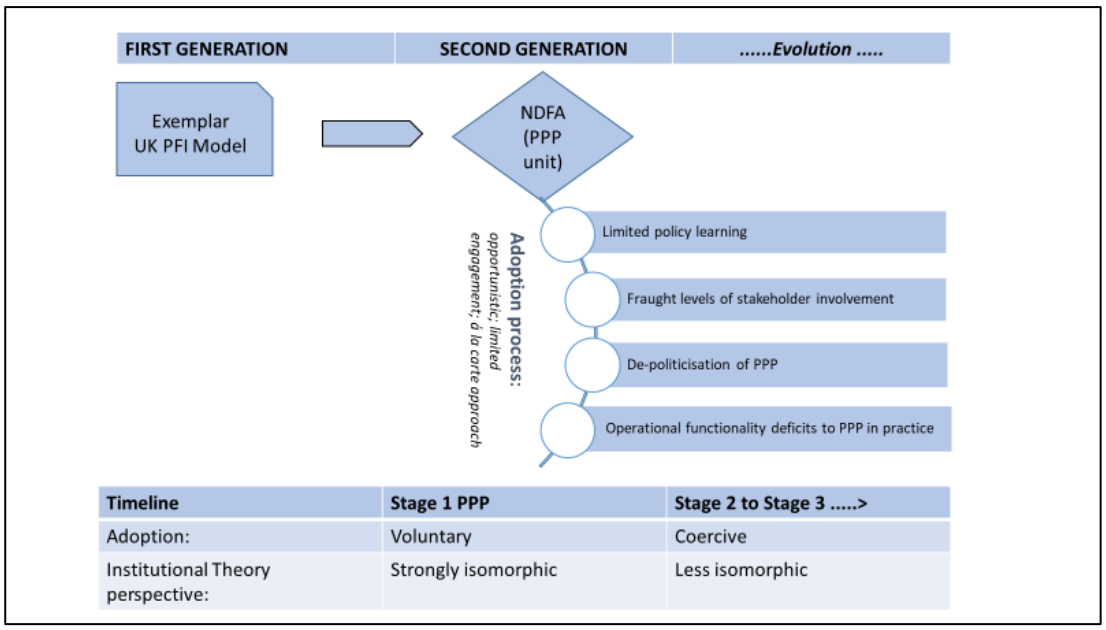
The pilot study indicated that while the avenue for complaint and arbitration in Irish PPPs is strong there are issues with transparency, the legal and regulatory system and risk transfer. The extended study, found that though there is a certain level of trust between the public and private sectors, there are specific concerns that suggest the contribution of PPP programme accountability to building trust is weak. These concerns surround the lack of transparency of PPP and the inability of the taxpayer to examine the value for money of PPP, as discussed earlier. It is impossible to comment definitively on accountability due to commercial confidentiality and the resultant lack of transparency in PPP. This is problematic particularly in light of past research by Aziz (2007) and Li et al. (2005a) which suggests that transparency is of the utmost importance for public accountability. There are many issues surrounding transparency, the legal and regulatory framework and risk transfer which paths overlap and interact in their effects. These issues seem to create a climate of doubt between the public and private sector, not to mention the civic sector and the taxpayer in particular, potentially creating a lack of trust in PPP. Issues with transparency, the legal and regulatory framework, and risk transfer highlighted earlier suggest that there is now an air of suspicion surrounding PPP procurement which affects how stakeholders feel about it.

The building of trust between the public and private sector is strengthened by the use of standards and mechanisms such as clear regulations and standards coupled with ex-ante evaluation. However, the research has found that in Ireland, while the avenue for complaint and arbitration is strong, issues relating to transparency, the legal and regulatory system and risk transfer are widely considered problematic. This has created doubts about the fairness of PPP procurement among several parties, and coupled with poor programme accountability, the building of trust in PPP has been flawed, which in turn adversely affects the sustainability of this policy in Ireland.

7.4 Novel findings and contributions

Ireland is a second generation adopter of PPP but has not fully embraced the policy. For the purposes of this research Irish PPPs are described as being mature. However, this can be disputed. It is assumed that the policy has matured as it has moved on from the first generation UK PFI model, yet despite the inception of the NDFA, Ireland has been selective in engaging with PPP policy as it has evolved over time. This is evidenced in the core findings which identified issues regarding limited policy learning, a problematic role of the NDFA, fraught stakeholder involvement, de-politicisation of PPP, and operational functionality deficits, all of which contribute to widespread doubt about PPP. Figure 7.2 summarises the discussion which follows in this section. The focus of this analysis is on key issues and novel findings identified in this research and their place within the existing disciplinary matrix of PPP research.

Figure 7.2: Novel findings and contributions



To start, this research makes a contribution to methodology by taking a critical realist perspective and using a unique framework, the Patterns of PPP Adoption Framework, to explore the rationales for PPP policy-making. This research utilised Merriam's (1998) approach to case study design and combined this with thematic analysis using Braun and Clarke's (2006) method of data analysis. Nvivo software was utilised to store and retrieve data, and results were plotted to the Patterns of PPP Adoption Framework.

This research gives unique insights into the patterns of PPP adoption and utilisation as it moves from being a first generation adopter (such as the UK) to a second generation

adopter (such as Ireland), with resultant insight and contribution to knowledge of the practical and theoretical aspects of PPP implementation. As a second generation adopter of PPP, Ireland has moved on beyond the *modus operandi* of first generation adopters of PPP which was typically closely related to the UK PFI model. For example, the establishment of a PPP unit, the NDFA, shows that Ireland's approach to PPP utilisation is mature. Yet some of the requirements of a mature PPP policy have not been fully embraced, with Ireland failing to engage with PPP policy to the same extent as other countries and jurisdictions, such as, for example, Victoria, Australia. There, disclosure on all PPP contracts is provided (English and Walker, 2004) and the Irish Committee of Public Accounts report in 2007 stated that the approach of Victoria, Australia, where the onus is on the tenderer to prove that "commercial in confidence" will adversely affect their business (Dáil Éireann, 2007, p.4) was exemplary. The report also recommended that, in line with British Columbia, Canada, contracts should be disclosed in their entirety after an appropriate period and three months after completion has been recommended. The report noted that in Victoria, Australia, the parliamentary committee and the Auditor General have authority to report "commercial in confidence" material when it is in the public interest for the information to be revealed (p. 16). This shows that none of these recommendations has been implemented in Ireland and in so doing provides a novel analysis of the ongoing weaknesses of Irish PPP policy. The first generation of PPPs in the Netherlands of the early 1990s suffered from financial and structural problems. In contrast, the second generation of PPPs came about after the government assessed international experiences of PPP, evaluated this and assessed conditions necessary for a successful partnership leading to political and public buy-in (Matos-Castaño et al., 2014). Given the weaknesses of PPP adoption and utilisation highlighted in this thesis, such a review seems overdue in the Irish context.

Related to this issue, this thesis also provides unique insights into the nature of policy transfer, and contributes to policy transfer theory by highlighting the impediments to the natural evolution of a policy during a period of uncertainties such as those experienced by Ireland during and after the financial crisis of 2008. This crisis created problems on account of changing market forces, budgetary constraints and complex multiple stakeholder involvement. The natural evolution of PPP policy as a second generation adopter would be that the policy would mature and follow the path of other well-managed examples of PPP, such as has been the case in the Netherlands. However, Ireland has failed to fully embrace measures which, had they been adopted, would have increased the legitimacy of PPP. For example, transparency is very weak and arguments surrounding commercial sensitivity are

used to block demands for greater transparency. Also, past projects reviews are scarce with only the review of the Criminal Courts of Justice building, a one-off PPP, and the C&AG's value for money review of the Pilot Schools Project having been published. To date, no reviews have been published of long-term projects such as Schools or Primary Care projects.

Despite this, the research contributes to the knowledge of PPP by indicating that Ireland's PPP policy has evolved in the sense that there is increasing reliance on learning from Ireland's own experience and less so from that of other countries such as the UK in particular. Also, the research shows that problems plaguing UK PFI have been recognised in Ireland and that, in doing so, Ireland has been careful with regard to some of the elements of PFI policy it now borrows. It also appears that as Irish PPPs have evolved, policy transfer now takes place in a different direction, where the European PPP Expert Centre (EPEC) considers the NDFA to be a model that other countries should follow. This suggests that, at least outwardly, PPP policies and practice in Ireland are perceived to have entered a mature phase. This insight into a country entering a maturity stage of PPP adoption without having addressed some key problems contributes to the literature on policy transfer theory by illustrating that a country can become a mature policy adopter while maintaining a flawed and selective approach to implementation.

Policy transfer and learning thus are not following established patterns of adoption as suggested by the literature. As the Patterns of PPP Adoption Framework, laid out as part of the pilot study in chapter 4, indicates, the most sustainable PPPs are those that are adopted on a voluntary basis, have strong institutional capacity built around them and are highly isomorphic. Yet Figure 7.2 shows that, while PPP implementation in Ireland was initially voluntary and strongly isomorphic, adoption has become more coercive and less isomorphic over time. This suggests that a hybrid form of policy transfer has taken place where there was initial transfer following a strong isomorphic route. After that, independent learning took place but with an *á la carte* approach to where only some measures which strengthen legitimacy, capacity and trust were implemented. This analysis contributes to the literature on PPP and theory by combining policy transfer theory and institutional theory to develop a unique framework, the Patterns of PPP Adoption Framework, which can be applied to other countries and settings to evaluate patterns of PPP adoption and as a predictor of PPP sustainability. For the Irish case, this framework suggests that PPP policy can persist despite flaws and despite less conducive external factors.

This research contributes to the literature on PPP by finding that there are ongoing weaknesses as well as advances in the sustainability of PPP in Ireland, outlined through the

themes of legitimacy, capacity and trust. This also provides unique insights into the practical application of PPP. One of the main contributors to the legitimacy of PPP is the role of the Lead Institutional Support or PPP unit. In Ireland, the NDFA is the centre of knowledge and expertise in PPP and is the state's adviser on PPP policy. However, there is confusion about its role. The NDFA wants to manage PPP but does not want to be a principal PPP policy decision-maker. While the organisation seeks to promote and inform policy, it appears to be reluctant to develop policy. Coupled with its role as implementer of policy, as exemplified by its bureaucratic structure and setup, this suggests the NDFA occupies a hybrid identity as PPP enabler. As a hybrid organisation it is a PPP unit which acts on behalf of the state and a state institution in the PPP sphere which seeks to promote PPP by being close to the private sector and its interests. Although the NDFA is supposed to provide lead institutional support, it abdicates some of this role by failing to engage more fully with policy innovation, development and decision-making, preferring to leave these roles to the political sphere. The research findings of this thesis indicate that political commitment to PPP in Ireland is weak, and it is therefore perhaps not surprising that the NDFA has adopted a role that falls short of that of an ideal lead institution, this supports and complements the state's policy-making efforts but in turn is likely to undermine the long-term sustainability of PPP in Ireland.

This research contributes to the literature on stakeholder salience theory in that one of the key findings of this research highlights that there is poor stakeholder involvement in PPP in Ireland with a complex multi-stakeholder system and hierarchy in place. Simon (1957) coined the term "satisficing" where one accepts the simplest theory that works (Simon, 1972). When it comes to stakeholder involvement in PPP in Ireland, patterns of satisficing manifest themselves in a tendency to engage only with those stakeholders who could hold up or prevent the PPP progressing, such as judges, clinicians and the local community (in the case of Education projects). This pattern also mirrors some of the predictions of stakeholder salience theory. Mitchell et al. (1997) discuss why importance is given to some stakeholder groups and not to others. They suggest that stakeholders can be recognised by their possession of the attributes of power, legitimacy and their eagerness to achieve certain ends. Mitchell et al. (1997) predict that significant attention will be given to stakeholders who possess these attributes. This research has found that in line with stakeholder salience theory, there is a hierarchy of stakeholders by sector and stage of PPP as outlined in Table 7.4.

Table 7.4: Mapping of stakeholder groups according to Stakeholder Salience Theory				
Type of stakeholder (Mitchell et al., 1997)				
	Demanding stakeholders	**Dependent stakeholders**	**Definitive stakeholders**	**Non-stakeholders**
Design and construction stages	Education (Teaching staff) Education (Trade unions)	Education (School Principals)	Education (Local communities) Justice (Judges) Primary Care (Clinicians and Local communities)	Taxpayer
Operational stages		Convention Centre (Local communities)	Education (School Principals)	

Mitchell et al. (1997, p.878) refer to stakeholders at the top of the hierarchy as "definitive stakeholders" who possess all three attributes of power, legitimacy and their eagerness to achieve certain ends. This research identifies definitive stakeholders as judges, clinicians and local communities (in the case of education projects and primary care projects) during the design and construction phase. The path of least resistance is taken to ensure that these stakeholders are kept satisfied. School principals at the design and construction phase, meanwhile, would be defined by Mitchell et al. (1997, p.877) as "dependent stakeholders", because they have "urgent and legitimate claims" but have "little or no power to enforce their will in the relationship".

There is typically no consultation with those stakeholders who exhibit the attributes of "demanding stakeholders". Mitchell et al. (1997, p.875) define these as groups with "urgent claims but neither power nor legitimacy". These stakeholder groups occupy a very weak role in the relationship. This research identifies as demanding stakeholders teaching staff and trade unions at the design and construction phase. At the operational phase, school principals are elevated to the level of definitive stakeholders whereas the local community in the case of the Convention Centre PPP exhibit the attributes of dependent stakeholders. Mitchell et al. (1997, p.874) also identify a stakeholder group which they refer to as "non-stakeholders", representative of taxpayers in this research, as Irish taxpayers are not given any apparent

legitimacy, power or urgency in PPP. The fragmented and partisan approach to consultation in Irish PPP projects gives rise to fraught levels of stakeholder involvement, creating suspicion and, when coupled with the de-politicisation of PPP, results in a widely perceived lack of transparency and accountability which, in turn, is likely to weaken the sustainability of PPP in the long run.

The research found that as PPP policy has evolved in Ireland, the de-politicisation of PPP has, if anything, progressed. This is in line with Willems and Van Dooren (2016, p.2) who write that there is a growing trend in the 21st century of "shifting functions and responsibilities of public policy in terms of decision-making away from elected politicians to 'specialised technical actors'". They suggest that the de-politicisation of PPP has seen governments turning to consultancy and advisory firms at the policy preparation and decision phase and during the operational phase. They also claim that the "budget autonomy of the parliament is reduced" through these practices, leading to poor visibility in public accounting (Willems and Van Dooren, 2016, p.7). This research found strong evidence of a de-politicisation of Irish PPP, with administrative day-to-day decision-making being transferred to the NDFA, a PPP unit which, as discussed, has a confused role as a PPP enabler. Irish PPP policy lacks a strong political presence which occurs in conjunction with an absence of transparency, particularly regarding decision-making and the financial justification of projects. There is no public scrutiny of how the public sector benchmark is calculated and projects may well be going ahead that are of limited value for money. In the absence of the publication of project reviews, however, this is impossible to examine. There is a lack of independent oversight of PPPs and the decisions of the NDFA are not scrutinised by the Comptroller and Auditor General. Irish PPPs also lack a political champion, with apparent indifference by politicians to PPP and a lack of effort to highlight the advantages of PPP to users. In fact, stakeholders are kept at a distance, with priority given to satisfying those who can delay projects.

Political indifference to PPP is also evident in the absence of independent oversight of post-construction performance monitoring of projects, a situation which again contributes to a lack of accountability to the public. A lack of transparency, meanwhile, makes it impossible to comment definitively on levels of performance and performance accountability once projects are operational. This lack of information is conveniently excused on commercial sensitivity grounds which are cited to avoid the dissemination of information which is routinely published in other jurisdictions. Willems and Van Dooren (2016, p.18) argue that "just because decision-making has shifted towards places that are less publicly visible and

controllable" does not mean that they are less political. They suggest that the de-politicisation typical of PPP policy-making in western European countries has been taken too far and the "balance needs to be adjusted" (Willems and Van Dooren, 2016, p.18). The Irish case studied here seems to confirm this.

If Irish PPP policy and procurement were more politicised, this would bring with them an obligation for more transparency, regulation, accountability and post-project reviews. Ultimately, politicians would be unable to engage in the arbitrary selection of projects which benefit their constituencies and satisfy electoral demands. McGeough and Beck (2018) suggest that the Irish political system is extremely competitive which creates a reluctance among politicians to use fixed decision criteria or performance metrics in the allocation of funds. They propose that, instead, politicians defer to their electoral base and will do whatever it takes to ensure their election, irrespective of longer-term national requirements. McGeough and Beck (2018) recommend that parliamentary committees should demand performance information on performance and spending targets. Perhaps there is a slow shift to this form of political oversight in Ireland where the Chairman of the Committee of Public Accounts called for financial information on PPPs to be provided by the Department of Public Expenditure and Reform, the Department of Education and Skills, Transport Infrastructure Ireland and the National Development Finance Agency in advance of an overview of PPPs which was to be held on 22 March 2018. Specifically the Chairman stated:

> we will ask them to justify their inability to give us full commercial details of any contract more than five years old. Commercial sensitivity might be valid at a certain point in time but not for ever. This will give us the opportunity to consider the information before we have the public meeting
> (Dáil Éireann, 2018).

McGeough and Beck (2018) cite Hofsted's (2001) work on organisational/managerial culture which ranks Ireland as a collectivist country, with a score of 70, similar to other countries such as Sweden (ranking 71) and Finland (ranking 63), while the UK is said to be individualistic (ranking 89). The introduction of performance related pay and the publication of performance targets were facilitated in the UK. Meanwhile, Ireland, with a more collectivist culture, has been slow to implement these measures. Irish policy-making is largely consensual and based on agreement and negotiation (McGeough and Beck, 2018) with reform proceeding slowly expect in times of crisis, while the UK system is adversarial, which paradoxically has come to facilitate a command-style culture.

The absence of political support for PPP exemplifies a culture of satisficing where PPP in Ireland appears to be a workable system and an important tool in the procurement box, but one which is allowed to meet the bare minimum requirements in terms of legitimacy, trust and capacity. The level of transparency and accountability in PPP currently ensures that the system is manageable, but it is at a level where there is a large margin for error as the financials involved are not publicly scrutinised. Irish PPP policy exhibits many of the hallmarks of Lindblom's (1959) pattern of "muddling through". It is just good enough to be workable, but there is no political ambition for excellence. It is possible that PPPs are being procured that would not commissioned if there were more transparency or that PPP would be procured and operated more effectively if there were transparency and ongoing accountability. This may not necessarily be attractive to policy-makers and politicians, however, as it would limit their discretion in fund allocation. This is hugely problematic, of course, in light of the fact that Ireland is still struggling with debt and there is a need for scarce public funding to be utilised correctly and effectively.

This research has found that there is PPP policy stagnation in Ireland, an area "underdeveloped" in the literature (Hope and Raudla, 2012, p.400). Attempts at understanding policy change can be explained using "discursive institutionalism" (Hope and Raudla, 2012, p.415) and this can also be used to explain policy stasis. Hope and Raudla (2012) put forward a model to explain that discourse surrounding a policy can lead to its change and also its stasis. Contributors to stasis or constraints to change include "cultural blinkers", "institutional obstacles" and "entrenched interests" (Hope and Raudla, 2012, p.403). Examining the discourses surrounding PPP adoption in Ireland, this research has found that the adoption was closely related to the introduction of new public management (NPM) reforms in the UK, suggesting that Ireland was pushing towards adopting a similar political culture. The motivation for the current phase of PPPs, meanwhile, is more pragmatic, and is about stimulating the economy and creating jobs. Mapping this to Hope and Raudla's (2012) model, the latter pattern mirrors the characteristics of a "cultural blinker" and as such can be seen as a contributor to policy stasis. The research also found that the discourse around the role of the NDFA in PPP represents an "institutional obstacle" and contributes to policy stasis. Problems associated with PPP are accepted because PPP is seen to contribute to a bigger goal: employment creation and economic growth. The discourse surrounding the domination of larger contractors in the Irish PPP market reflects an "entrenched interest" which contributes to policy stasis because the interests of these contractors are accepted as paramount. This research thus has contributed to the literature on policy stasis by examining the discourses of

PPP policy in Ireland. In so doing, it sheds new light on policy stagnation and stasis as a key characteristic of PPP policy in Ireland. While PPP is limping along, it has not been proven to be effective, the methodology underlying decision-making is flawed, there is an absence of political support and there are fraught levels of stakeholder involvement. Existing discourses, meanwhile, prevent a serious reflection on the weaknesses of PPP practice, yet no one seems to be willing to address these issues until concerns for PPP long-term viability become more urgent.

This research contributes to the literature on the practical aspects of PPP as it found significant operational functionality deficits, outlined in the *7.3 The core findings in relation to the research questions*. These include a lack of independent oversight, poor programme accountability and issues with risk transfer. The lack of transparency surrounding PPP procurement and operation due to commercial sensitivities are conducive to a lack of credible oversight. The main stakeholder to whom value for money should be demonstrated, the taxpayer, is a non-stakeholder, very much in line Mitchell et al.'s (1997) terminology. Combined with the lack of programme accountability, this chimes with de-politicisation of PPP. As Irish PPP adoption has matured, this de-politicisation has intensified, allowing politicians to make convenient and expedient use of this procurement method while outwardly the image of a mature and efficient system is being cultivated. This also relates to the significant operational problems highlighted by this research with risk transfer. Rather than transferring risk to the party best able to manage it, as suggested by the literature, an expedient approach is taken to ensure that as much risk as possible is transferred to the private sector to ensure that a PPP project is kept off-balance sheet. This chimes with the experiences of early UK PFI contracts where excessive risk was transferred to the private sector when it should have remained with the party best able to "bear it", that is, the state. This resulted in high levels of compensation being paid to the private sector for risk (Pollock et al., 2002). Evidently, PFI sustainability lessons from the experiences of risk transfer in the UK and recommendations made have not been learnt or applied in Ireland. Again, this falls in line with the prevalent de-politicisation of Irish PPP as well as the Willems and Van Dooren (2016) hypothesis of a new technical pseudo-rationality replacing traditional concepts of public financial and parliamentary accountability. As a whole, macro-political factors at the fiscal policy level and meso-political problems at the organisational level exemplified by the NDFA's problematic position seem to reinforce each other in preventing credible reforms. Added to this are micro-factors at the market level where the dominance of large players

seems to prevent a more detailed analysis of employment and economic gains associated with PPP procurement.

7.5 Policy implications

There is an opportunity to reform PPP policy in Ireland. Attention should be paid to exemplars of transparency such as Victoria, Australia and British Columbia, Canada. Increased transparency in PPP was recommended by the Committee of Public Accounts in 2007 (Dáil Éireann, 2007, p.24). Yet, more than ten years later, the Chairperson of the Committee of Public Accounts is still asking for this in February 2018 (Dáil Éireann, 2018).

A number of reform measures are possible. One measure concerning the publication of the public sector benchmark (PSB) would help to demonstrate the value for money, or otherwise, of individual PPPs to stakeholders and in particular the much ignored group of stakeholders, taxpayers. At the very least there should be an independent review of the PSB perhaps carried out by the C&AG. This would avoid the necessity to publish potentially sensitive figures, particularly when there is an active market of PPP, while an independent body would examine figures and report its findings to the public.

Similarly, the findings of post-project reviews should be made available to the public. A precedent was set with the value for money review carried out by the C&AG on the Pilot Schools Project in 2004 (Comptroller and Auditor General, 2004) a "path-finder" project, and the review of the Criminal Courts of Justice (CCJ) project in 2012 (Mazars, 2012). However, since then, the Department of Education and Skills has not published any reviews, and while there is a planned internal review of Primary Care projects, it is unclear whether this will be published. The decision whether to publish post-project reviews should rest with the Department of Public Expenditure and Reform, as this is the Department which is tasked with delivering "well-managed and well-targeted public spending, through modernised, effective and accountable public services"[26].

In fact, the Department of Publication Expenditure and Reform has recommended these points in a report published in July 2018. This report recommended that the business cases for PPP projects should be published alongside the public sector benchmarks once an appropriate time has elapsed and the commercial sensitivity of the information is no longer relevant. The report also recommended that post-project reviews be undertaken and published (Department of Public Expenditure and Reform, 2018).

[26] http://www.per.gov.ie/en/mission-statement/

Accountability to stakeholder groups is paramount in PPP. However, there is a complex multi-stakeholder system in place in Ireland. As previously argued, by applying Mitchell et al. (1997, p.876) stakeholder salience theory, it appears that the taxpayer is considered a "non-stakeholder". It looks as if Ireland is following the same route as the UK. PFI projects there were found to lack "consistent, comparable, and understandable financial information" and it became difficult for public sector stakeholders to examine the use of public money in PFI projects (Shaoul et al., 2009, p.251). This makes informed public debate on policy and fiscal commitments difficult (Shaoul et al., 2009; Shaoul et al., 2013) and adversely affects the sustainability of the policy for future generations.

By increasing transparency in PPP, particularly regarding the decision to go down the PPP route, in the PSB and in post-project reviews, due regard will be given to the taxpayers, promoting a new importance of taxpayer as potential future "definitive stakeholders".

An active market is essential for PPP and this requires a clear pipeline of projects which encourages potential bidders to bid. However, issues surrounding transparency, the legal and regulatory framework and risk transfer create a climate of doubt among public and private sector PPP stakeholders. They also affect the civic sector and taxpayers who have little reason to put trust in the integrity of PPP procurement. This has implications for Ireland in attracting private sector interest in PPP, particularly as the scale of the Irish market is very small. The dominance of the Irish market by one contractor is problematic for smaller contractors and is a unique feature to Ireland. The strong market dominance by one company creates a danger of a monopoly where prices can be dictated, where there are barriers to entry by other competitors, and where there is the risk that the company may go bankrupt. Creating market demand requires a market that is easily entered into. The stimulus package announced in 2012 and new measures announced in 2013 have gone some way to encouraging participation in the market, and perhaps these measures could be augmented. Solutions to encouraging smaller contractor engagement with PPP without interfering with the workings of the market should be investigated. This point was made by the aforementioned report published in July 2018 by the Department of Publication Expenditure and Reform. This report recommended greater competitive tension in the procurement process and suggested that this would open the PPP market to smaller domestic contractors (Department of Public Expenditure and Reform, 2018).

During the financial crisis when PPP was seen as the only viable way of building infrastructure, the satisficing nature of PPP could perhaps be justified. However, now that the financial crisis has come to an end and more avenues for funding are available, PPP is perhaps

no longer as useful an option as it was in these years. This should therefore be a time when all options are rigorously and systematically assessed and the widest possible level of stakeholder engagement encouraged. Indeed the Department of Public Expenditure and Reform in its July 2018 report stated that PPPs should be considered on a "case by case basis" based on the merits of the project and that value for money criteria be fully restored (Department of Public Expenditure and Reform, 2018, p.4).

7.6 Limitations of the study and avenues for further inquiry

When reviewing the findings and conclusions of this thesis a number of issues should be taken into account. While steps were taken to ensure the validity and reliability of the analysis, some limitations should be acknowledged when interpreting the results of this work. The following paragraphs draw attention to these limitations but should also be looked at in the context of avenues for further inquiry. This study has told the ongoing story of PPP in Ireland and has revealed a number of interesting areas for further research which could not be fully addressed in this thesis.

First, this study has examined the role of the public and private sector in the sustainability of PPP in Ireland and a representative sample was drawn from these groups. There was limited access to the civic sector, although trade unions are categorised as the civic sector (see for example, Jooste et al. (2009)) and they did form part of this research. Access to more civic sector groups such as the users of the assets, local residents, taxpayers and civic organisations would have added an extra layer of data, particularly in the context of *Theme 3 Trust*. However, this was beyond the range of this research but it would be worth investigating the views of this group to provide an important addition to the research conducted here. There was also limited access to the financiers of PPP. This was due to the timing of the research, because at the time the data was collected, Irish banks were largely controlled by the state and were unwilling to be interviewed. It would also be worth investigating the role of financiers in Irish PPPs at a future date because research into UK PFI has found evidence of massive private sector profit-making, failure of private sector financiers to share the profits of refinancing, and the lobbying of state agencies by the private sector to alter the structure of accounting regulations in their favour (Toms et al., 2011).

Second, at the beginning of the research, the PPP unit, the NDFA, was considered to be a lesser component of this research project. As the data-gathering stage continued, however, the importance of the role which the NDFA plays in the sustainability of PPP came to the fore. However, this research project did not include interviews with key NDFA staff in

part due to fears that access would be denied or members of their media department would act as sole interviewees. This view was confirmed at a PPP conference on 19 November 2015, when an NDFA official responded with a standard response and was unwilling to give an on the record statement. There was also a fear that the NDFA would demand editorial control over the data analysis had the organisation been included. As part of further research, the NDFA could be approached for its consideration of the findings of this research and asked to comment on relevant sections.

Third, this research draws attention to the lack of transparency of the PPP policy in Ireland and asks questions on the nature and make-up of the public sector benchmark (PSB). It would be useful to contrast Ireland's approach to the transparency of the PSB with that of other jurisdictions such as Victoria, Australia and British Columbia, Canada. Transparency in PPPs is an issue raised by the European Court of Auditors report (2018). The Department of Education and Skills in January 2018 published the make-up of the PSB for Schools Bundles 1, 2 and 3. Within this it highlighted the "value for money headroom" of each of these bundles. However, no explanation was given as to what the precise meaning of this was. There is scope for further research into the value for money assessment process these recent projects have undergone.

Fourth, this research draws attention to the role of the Comptroller and Auditor General (C&AG) as a state auditor of PPP projects. Future research could contrast the role of state auditors in other jurisdictions with the C&AG in Ireland to provide insights into how the role of the C&AG could be expanded to address some of the current deficiencies of PPP governance.

Fifth, the government introduced a domestic stimulus programme in 2012 which focused on job creation and economic stimulus and then introduced new measures in 2013 to encourage participation in the market. The effects of this programme are unclear and could be explored further, first, to see if it did result in job creation and economic stimulus, and second, to see if it encouraged the private sector to participate more actively in the PPP market.

Sixth, there are opportunities to examine the implications of the cyclical nature of Irish PPP spending. Ireland increased PPP spending as the country moved out of austerity and credit became more readily available. There is a need to examine how PPP spending could be targeted effectively to encourage growth in periods of stagnation or recession. This research could provide insights into whether countries can utilise PPP as a long-term instrument of public policy rather than adopting an *ad hoc* approach.

Finally, following the announcement in the UK in January 2018 of the liquidation of Carillion, a construction company involved in a consortium to build six schools through PPP in Ireland, there is a need to examine the vulnerability of PPP to private sector business failure and the potential roles of government organisations in mitigating this.

7.7 Conclusion

PPP in Ireland appears to be a workable system and a useful tool in the state's procurement box. According to this research, however, it only meets the minimum requirements of legitimacy, trust and capacity. Figure 7.3 lays out the results of this research.

Figure 7.3: Results of the research

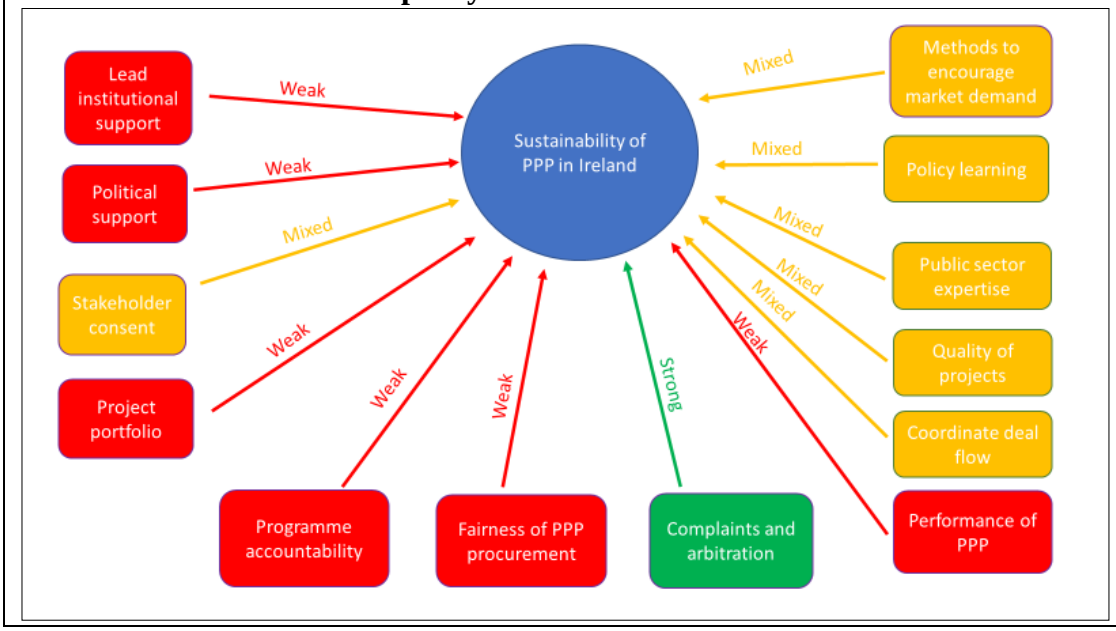
RQ 1: What are the reasons for the adoption of the PPP policy and its continued use in Ireland?

Reasons for the adoption of PPP and its continued use	
Reasons for the introduction of PPP:	**Reasons for the continued use of PPP:**
• Filling the infrastructure gap • Ideological reasons • Risk transfer • Political expediency • NPM reforms	• Create jobs and stimulate the economy • Off-balance sheet nature of PPP
◄——————————————————►	
Voluntary	Coercive

RQ 2: What is the extent of the influence of policy transfer on PPP adoption in Ireland?

Patterns of PPP Adoption Framework			
		Degree of Policy Transfer	
Degree of Institutional Capacity Building		**Weak**	**Strong**
	Voluntary	(3) Voluntary PT & weak institutional capacity building	(1) Voluntary PT & strong institutional capacity building
	Coercive	**(4) Coercive PT & weak institutional capacity building**	(2) Coercive PT & strong institutional capacity building

RQ 3: What is the extent to which institutional environments have been adapted to enable a sustainable PPP policy in Ireland?



The reasons for the continuing use of the PPP policy have changed over time. Originally, PPP was intended to help fill the infrastructure gap that existed at the time, but it also fitted with the political and ideological motivations of the Minster for Finance of the day. However, since the financial crisis, the use of PPP has evolved to it being seen as a means for creating jobs and stimulating the economy as well as a way to keep borrowings off-balance sheet.

While some policy learning has taken place around Irish PPP, this has been very mixed. PPPs have gone from being adopted voluntarily and being strongly isomorphic to more recently being coercively imposed and being less isomorphic. Over the same period, Ireland has continued to be selective in embracing measures to increase legitimacy, capacity and trust. Although Ireland was aware of policy failures in the UK, it did not replicated policy reform and approaches such as were adopted in the Netherlands, Victoria in Australia or British Columbia in Canada.

Institutional support and capacity building in Ireland are confused and underdeveloped. The NDFA, as lead institutional support, does not act as a genuine leader or champion. It is more an implementer, day-to-day routine decision-maker and administrator. Political commitment to PPP is weak and is not helped by the NDFA's hands-off approach. There is also evidence of uneven institutional capacity across the public sector with some government departments and state authorities having set up a PPP unit and others not having done so.

Efforts to encourage a competitive market have been hampered by the NDFA's unwillingness to champion PPP policy, and coupled with a lack of political commitment and a stuttering pipeline of projects, this has resulted in a small PPP market which lacks scale and certainty to attract large bidders. The rigid, overly bureaucratic tendering process creates high levels of administrative overhead in the bidding process which has driven out all but the biggest contenders. The dominance of one bidder discourages new bidders from entering the market, and innovation has been stifled further by the introduction of design-led projects.

PPP in Ireland has fraught levels of stakeholder involvement, with the main reason for stakeholder consultation being that a group could potentially delay the project. There is evidence of satisficing and an opportunistic attitude to stakeholder engagement.

The PPP system which exists in Ireland does work, but there is a large margin for error due to a lack of transparency and accountability, poor independent oversight and no

VFM or post-project reviews. The implication of this is that PPPs may come about which are poor VFM and not suitable but exist because of the foregoing.

Ireland needs to emulate the measures adopted by progressive jurisdictions such as Victoria and British Columbia. This will involve making PSB calculations publicly available as well as other measures aimed at improving accountability through independent review. There is the opportunity perhaps to engage the C&AG in reviewing and publishing post-project reviews, and this would give greater regard to taxpayer. Ireland needs to ensure an active market for PPP with a clear pipeline of projects brought about through political commitment. There also needs to be clarity around risk transfer and the legal and regulatory framework. Above all else, there needs to be honesty about whether PPP is the best option for delivering public projects in Ireland.

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Appendix A: Summary of the literature examining the Legitimacy, Trust and Capacity of PPP

Delhi and Mahalingam 2012 write about the key capabilities that need to be present in the institutional environment:

Delhi and Mahalingam (2012): 6 case studies across different PPP sectors	• Clear rationale • Legitimacy • Political willingness to initiate projects and to ensure that projects deliver their intended benefits • Predictability and commitment in decision-making which increases credibility of project players and confidence of key stakeholders • Capacity to develop and monitor projects • Advocacy whereby stakeholders are convinced and well-informed, and an effective communications strategy is evolved

Whereas other authors divide these capabilities into measures under Legitimacy, Trust and Capacity:

	Legitimacy	**Trust**	**Capacity**
Jooste et al. (2009)	• Transparency • Publicly available information • Consistency & fairness in applying legal & regulatory frameworks • Providing a stable political environment • Conducting procurement in an internationally recognised and transparent way	Instead of "Trust" the article discusses "Balancing interests": • Public sector vs private sector • Private sector vs civic sector • Public sector vs civic sector	• Centralised PPP unit • Strong and vibrant market of infrastructure providers to ensure competition and quality work • Government guarantees or direct financial support • Engagement of general public in the PPP process • Improving the objectivity and independence of the media • Developing norms of information sharing and participation in the decision-making procedure
Delhi et al. (2010): 11 case studies across infrastructure projects in India	• Process of awarding contracts are standardised and transparent • Contractual commitments can be quickly enforced • Capacity to appropriately select and structure projects is high		
Matos-Castaño (2011): see Matos-Castaño et al. (2012) below	• Clear rationale for PPPs including expected benefits and in conditions where they are preferred to traditional infrastructure - Policy guidelines - Indicators to identify potential projects for PPP - Standard operating procedures	• Public sector predictability - Sound policies that lay down clear objectives and principles - Transparency and fairness during project procurement and selection - Predictability in decision-making by	• Public sector capacity - In house PPP knowledge - Training programs and workshops - Guidance notes • Risk and financing mechanism - Standard risk allocation mechanisms

	Legitimacy	Trust	Capacity
	• Political willingness - Ensure programme solidity - Predictability of decision-making - Support at a high political level (political champion) - PPP unit which is transparent and consistent, disseminates information, provides specialised management and acts as an adviser • Advocacy - Stakeholders are convinced and well-informed and governments make effective communications strategies available - Constant consultation with all stakeholders at every stage - Consultation with potential bidders and partners - Informal feedback from the market during the preparation stage is convenient	developing transparent, well documented and consistent policy-making - Carrying out the project in a transparent manner - Competitive bidding process - Making information readily available for everyone interested - Involving the public in the consultation processes • Public sector commitment - Established regulatory agency - Standard dispute resolution mechanisms - Cooperation platforms by using contracts to put emphasis on helping business to comply with rules and become real partners • Private sector commitment - Project contracts and structures should be planned to enforce private sector commitment to provide service quality at a cost - Contracts should be enforceable and based on clear laws	- Type of contract - State support funding • Private sector capacity enhancement - Competitive bidding - Cooperation
Matos-Castaño et al. (2012): longitudinal approach in two countries (Netherlands and India) over time and analysed the impact at three different points in time (1st, 2nd & 3rd stage). Each point represents a road project. There are 4 case studies in the Netherlands and 4 in India.	• Guaranteeing transparency • Giving strategic information • Providing a stable political environment • Actions that promote the willingness of public and private actors to engage in PPPs • Political champion • Project portfolio • PPP policies • Public consultation	• Public sector predictability - Decision-making departments • Guidance Documents - Project preparation and identification guidelines - Standard documents - Model contract - Project development responsibility • Public sector commitment - Established regulatory agency - Standard dispute resolution mechanisms - Cooperation platforms Private sector commitments: - Project monitoring	• Public sector capacity - In-house PPP knowledge - Training programs/workshops - Cross project knowledge - Guidance notes • Risk and financing mechanisms - Standard risk allocation mechanisms - Type of contract - State support funding • Private sector capacity enhancement - Competitive bidding - Cooperation • Providing a project portfolio

	Legitimacy	Trust	Capacity
		- Cooperation platforms	
Matos-Castaño et al. (2014): two case studies (Netherlands and India). They evaluated 4 different projects in each location at different points in time that were comparable with projects in the other location at around the same point in time.	• Creating transparent procurement procedures • Ensuring community involvement and acceptance of PPPs • Providing a stable political environment	• Predictable, equitable and transparent project award procedures	• Creation of coordination agencies • Documenting experiences and providing training programs • Providing appropriate risk and financing mechanisms to effectively award and govern PPP projects
Verhoest et al. (2015)	• Supportive political environment and clear policies • Transparent procurement procedures	• Clear regulations • Standards • Clear roles of public actors • Ex-ante evaluation	• Expertise centralisation at different levels • Dedicated units • Systems for learning and knowledge diffusion • Appropriate risk and financing mechanisms

Appendix B: Key documents brought into Nvivo

Dáil Éireann Committee of Public Accounts

- First Interim Report, 2007, Access to the Private Element of Public Private Partnerships – An International Comparison
- 6 December 2012
- 13 December 2012
- 15 May 2014
- 29 May 2014
- 21 July 2016

Dáil Éireann Budgetary Oversight Committee

- 17 January 2017
- 28 March 2017

Dáil Éireann Joint Committee on Housing, Planning, Community and Local Government

- 9 March 2007

Dáil Éireann Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach

- 4 May 2017

Department of the Environment, Heritage and Local Government

- A Policy Framework for Public Private Partnership (PPP) in Ireland, Evolution of PPP Policy in Ireland, November 2003

Courts Service documents

- Post Project Review, Criminal Courts of Justice Complex, Mazars, October 2012

National Development Finance Agency Annual Reports

- 2003 - 2014

Irish Government Capital Plans

- National Development Plan 2000 – 2006
- National Development Plan 2007 – 2013
- Building on Recover: Infrastructure and Capital Investment 2016 – 2021, Department of Public Expenditure and Reform, September 2015

Public Private Partnership policy documents

- Farrell Grant Sparks and Goodbody Economic Consultants in association with Chesterton Consulting, 'A report submitted to the Inter-Departmental Group in relation to Public Private Partnerships', July 1998
- Framework for Public Private Partnerships, 'Working together for quality public service', Department of Finance, November 2001
- Public Private Partnership National Communications Strategy, Department of Finance, 2002
- Policy Framework for Public Private Partnership (PPP) in Ireland 'Evolution of PPP Policy in Ireland', Department of Environment, Heritage an Local Government, November 2003
- Sustaining Progress Social Partnership Agreement 2003-2005, Department of The Taoiseach, 2003

- Department of Finance Circular 18/2007, Minute of the Minister for Finance on the Committee of Public Accounts - First Interim Report 2007, Access to the Private Element of Public Private Partnerships - An International Comparison

Comptroller and Auditor General reports

- Annual Report of the Comptroller and Auditor General, 2002
- Report on Value for Money Examination, The Grouped Schools Pilot Partnership Project, June 2004
- Annual Report of the Comptroller and Auditor General 2006
- Annual Report of the Comptroller and Auditor General 2008
- Annual Report of the Comptroller and Auditor General 2011
- Annual Report of the Comptroller and Auditor General 2012
- Annual Report of the Comptroller and Auditor General 2013

Business and Union reports

- Irish Congress of Trade Unions, 'Guidelines for unions on consultations with State Agencies and Public Authorities in Ireland concerning Public Private Partnerships', May 2005
- Irish Business and Employers Confederation, Public Private Partnerships Lifting the barriers, advancing the programme', 2007
- Report for the IBEC Public Private Partnership Council from CIPA, 2007
- Irish Business and Employers Confederation, 'Public- Private Partnerships Delivering During Recession', An IBEC PPP Council Report, January 2009
- Irish Business and Employers Confederation, 'What next for Infrastructure? Infrastructure Insights for Ireland', 2011
- Irish Congress of Trade Unions, 'Delivering Growth & Jobs Funding a major new investment programme', Summer 2012

Education documents

- Teachers Union of Ireland News, Vol. 30/No. 2, November 2007

UK Private Finance Initiative documents

- National Audit Office, 'A Framework for evaluating the implementation of Private Finance Initiative projects: Volume 1', 15 May 2006
- National Audit Office, 'Private Finance Projects, a paper for The Lords economic affairs committee', October 2009
- National Audit Office, 'Financing PFI projects in the credit crisis and the Treasury's response', 27 July 2010
- HM Treasury, 'The Green Book Appraisal and Evaluation in Central Government', July 2011
- HM Treasury, 'A New Approach to Public Private Partnerships', 2012.

Appendix C: Interview questions appropriate to the public sector and adapted for the civic sector

(1) What is your position in the public sector?
(2) How many years have you worked here?
(3) Can you tell me a little about your dealings with PPP?

Develop supportive legal framework and apply consistently

(4) Do you think a clear legal and regulatory framework been established? E.g. PPP unit, PPP legislation, standardised contracts and documents
(5) How well do you think the PPP legal framework works? Is it too prescriptive?
(6) Do you think that these frameworks and policies been applied consistently? Are they coherent?
(7) Do you think that the legal capacity to handle PPPs has been developed? E.g. have lawyers and judges been trained or are they up to speed?
(8) If a contract needs to be changed to accommodate change or a rebalancing of interests is this possible?

Provide political commitment

(9) Is there strong political support to PPP? At what level does it manifest itself?
(10) Do you think there is anyone on the political stage driving the PPP agenda? Who is that?
(11) Has the nature of political commitment to PPP changed over time?
(12) Do you think there are any key political risks in terms of PPP? If so, what are they?

Gain buy-in from key constituents

(13) Who would you see as the key stakeholders involved in PPP?
(14) Has there been support from those key stakeholders for the concept of PPPs? What shape did this support take?
(15) Do you think the objectives of all stakeholders in PPP have been identified and met?

Improve public sector knowledge of PPPs

(16) Has adequate training on PPP been provided to public sector staff?
(17) If so, what type of training has taken place?
(18) Do you know whether any lessons learnt from previous PPP experience have been communicated within the public sector? [e.g. documented failure of PPPs in Mexico in 1990s and Benefits Agency and Passport Agency in the UK]
(19) What guidance material published do you find useful?
(20) What was the outcome of pilot projects? Were any lessons learnt that informed the roll-out of future projects?

Develop market of private providers

(21) What PPP projects have you worked on?
(22) Is the PPP programme credible to the market and does it attract strong market interest?
(23) Is there a strong domestic capital market from which to borrow? E.g. Irish Banks
(24) When the public sector commission PPPs, do you know if they assess early on in the process the feasibility of the project in terms of sufficient market interest to raise finance for the project?

(25) Has anything been done to reduce the cost and length of time of PPP procurement to the public and private sectors? What were the most useful?
(26) What actions have been taken to sustain state credibility?

Establish a PPP unit

(27) Does the NDFA [27]provide leadership in the PPP process?
(28) Does the NDFA have a role to play in policy development?
(29) How do the NDFA interact with stakeholders? [such as Departments, C&AG]
(30) In terms of recruitment in the NDFA:

-where do staff come from?

- what would their career path be typically?

- are they specialised?

- are they paid retention fees?

(31) Does the NDFA separate policy from practice to avoid the danger of it becoming a promoter of PPPs?
(32) Does the NDFA run procurements as well as provide advisory work?

Coordinate deal flow

(33) Who decides on what projects should be pursued?
(34) Do the political preferences enter into PPP decisions?
(35) Is the pipeline of projects well managed to avoid 'bunching'?
(36) Is there clear communication of upcoming projects to market? [this benefits the sponsor as it will highlight any potential project clashes]
(37) Is information on project timing given early so that bidders are able to allocate resources appropriately and prioritise projects?

Improve programme transparency

(38) How good is transparency in PPP programs?
(39) Is transparency in PPP programs a good thing?
(40) Have the NDFA a clearly defined mandate and policy on performance oversight?
(41) Has the basis on which the proposals are evaluated been made public?
(42) Are all interested competitors informed in advance of projects, how suppliers are evaluated and what criteria are used to award contracts?
(43) Are detailed records kept of how contract are awarded?
(44) Are these records available to interested parties? [media, unions, citizens, investors]

Ensure quality of projects

(45) What aspects of PPP are of a higher (or lower) quality than traditionally procured projects? [through government funding]
(46) How accurately do PPP projects reflect social and economic need? Is there a social and economic need for PPP projects?
(47) What role does political opinion play in choosing projects?
(48) Are PPP projects of sufficient size to interest international financiers and concession companies?
(49) Are strong private consortium been selected?

[27] NDFA: centre of PPP expertise; agent for state authorities for PPP procurement; Issues VFM opinions on projects; manages procurement and delivery of PPP projects; provides contract management services in respect of PPP.

(50) Are all risks been identified early in the project?
(51) Has the optimum sharing of risk transfer between the public and private partners been achieved in PPP projects to date?
(52) What risks are the private partners better able to control? What risks are the government better able to control?
(53) Is there good project management and contract management on all projects?
(54) Have any steps been taken to increase the flexibility[28] of PPP contracts e.g. has the government the right to modify the construction or operational specifications of the contract?
(55) In your experience how difficult were negotiations around quality issues?

Keep Line Agency discretion in check

(56) How does one mitigate against the risk of Departments/NDFA[29] making unrealistic commitments on behalf of government?
(57) How does the procuring Department or NDFA ensure the quality of project as it is developed? Or does it?

Monitor behaviour of private providers

(58) Is there a complaints and arbitration procedure for both sides?
(59) Does it work?

Increase programme accountability

(60) Are performance assessment and measurement of PPPs set out in contracts and are they monitored?
(61) Does this continue after the contract is concluded?

Management support to public sector agencies on specific projects

(62) Do the NDFA provide technical advice and support on specific projects?
(63) Are external advisors hired where necessary to fill the skill gap?

Ensure PPP projects promote the public interest

(64) Have PPPs helped to improve public services and infrastructure?
(65) Are the right PPPs being built e.g. schools being built in the right place? Social housing – only in the Dublin region?

Ensure fairness of PPP procurement

(66) Are you satisfied with the integrity of the project?
(67) Has the selection and award criteria been neutral and fair to all bidders?
(68) Has an avenue for complaint to an independent tribunal been provided for?
(69) Have non-discriminatory rules to improve competition been included?

[28] Particularly in healthcare – new technologies – may not be relevant in roads and schools.
[29] Line agencies such as government agencies/departments.

Appendix D: Interview questions appropriate to the private sector

(1) What is your position in the company?
(2) How many years have you worked here?
(3) Can you tell me a little about your dealings with PPP?

Develop supportive legal framework and apply consistently

(4) Do you think a clear legal and regulatory framework been established? E.g. PPP unit, PPP legislation, standardised contracts and document
(5) Do you think that these frameworks and policies have been applied consistently? Are they coherent?

Provide political commitment

(6) Is there strong political commitment to PPP? At what level does it manifest itself?
(7) Do you think there are any key political risks in terms of PPP? If so, what are they?

Gain buy-in from key constituents

(8) Who would you see as the key stakeholders involved in PPP?
(9) Has there been buy-in from those key stakeholders for the concept of PPPs?
(10) Do all the stakeholders want the same thing from the PPP?

Improve public sector knowledge of PPPs

(11) Do you think there is adequate public sector understanding of and expertise in PPPs?
(12) If so, has it increased/improved over the years?
(13) How has this been achieved?
(14) If no, how might this be achieved?

Develop market of private providers

(15) What PPP projects have you worked on?
(16) Is the PPP programme credible to the market and does it attract strong market interest?
(17) Do you think that the right actions have been taken to attract private investment, including developing the domestic capital market?
(18) Have guidance materials for the use and benefit of the private sector been published?
(19) Has anything been done to reduce the cost and length of time of PPP procurement to the public and private sectors? What were the most useful?

Establish a PPP unit

(20) What is the role of a PPP advisory unit such as the NDFA?
(21) Does the NDFA provide leadership in the PPP process?
(22) Should it have a role to play in policy development?
(23) How do the NDFA interact with the private sector?
(24) How well do you work with the NDFA?

Coordinate deal flow

(25) Is the pipeline of projects well managed to avoid 'bunching'?
(26) Is there clear communication of upcoming projects to market? [this benefits the sponsor as it will highlight any potential project clashes]
(27) Is information on project timing given early so that bidders are able to allocate resources appropriately and prioritise projects?
(28) Are you given clear explanation and guidance during the different stages of the procedure?

(29) Do you think that this could be improved?

Improve programme transparency

(30) How good is transparency in PPP programs?
(31) Is there enough or too much transparency?
(32) Are all interested competitors informed in advance of projects, how bidders are evaluated and what criteria are used to award contracts?
(33) Has the basis on which the proposals are evaluated been made public?

Ensure quality of projects

(34) How are PPP projects identified?
(35) What aspects of PPP are of a higher (or lower) quality than traditionally procured projects? [through government funding]
(36) Have strong private consortium been selected?
(37) Are all the risks identified early in the project?
(38) What risks are the private partners better able to control? What risks are the government better able to control?
(39) Is there good project management and contract management on all projects?
(40) Have clear contract clauses for 'step-in'[30] rights been provided?
(41) Have minimum acceptable performance levels and response times to fix deficiencies been established?
(42) Have clear contract clauses for 'step-in' rights been provided?

Implement independent oversight of project development and execution

(43) Who carries out the oversight? E.g. monitoring authority or auditor
(44) How satisfied are you with this? Can it be improved?
(45) Do they report to anyone who might have an interest in their work? How is this done?
(46) Are the results published?

Provide Government support for private providers

(47) How can government provide support for private providers or encourage the private sector? E.g. is a clear pipeline of projects visible?
(48) Does the government ensure 'even-handed' regulation (ie avoid over regulation)?

Keep Line Agency discretion in check

(49) What is the line of responsibility in PPP decision-making?
Ask union: are there projects being perused that don't meet the PPP standards because there is no alternative?
(50) Who are the key decision-makers?

Monitor behaviour of private providers

(51) Is there a complaints and arbitration procedure for both sides?
(52) Does it work?

Increase programme accountability

(53) Do the NDFA carry out evaluations after the project is up and running?

[30] Step-in rights: For example under concession contracts lenders ask to be given 'step in' rights. This allows the lender to take over the project, and if necessary bring in a substitute concessionaire, in order to forestall a termination of the concession agreement following the concessionaire's default. The main purpose of 'stepping-in' is to avoid a collapse of the agreement of the concessionaire and the basis by which the ender is repaid (UNECE 2008 p32).

(54) Do you know if there are plans to carry out evaluations after the contract has ended?

Ensure PPP projects promote the public interest

(55) Have PPPs helped to improve public services and infrastructure?

Ensure fairness of PPP procurement

(56) Have recognised procurement practices (competition) been followed to avoid conflicts of interest?
(57) Has the selection and award criteria been neutral and fair to all bidders?
(58) Has an avenue for complaint to an independent tribunal been provided for?
(59) Have non-discriminatory rules to improve competition been included?

Appendix E [31]: Codebook\\Phase 2 - Generating Initial Codes

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Aberdeen Asset Management	Reference to Aberdeen being part of the consortia	1	1
Accommodation projects	Reference to accommodation type PPP projects	1	1
Accountability	Reference to contract accountability within PPP	4	16
Accounting for PPPs	Reference to how PPPs are accounted for by DPER	1	3
Advisors	Reference to Advisors in PPP	1	1
Alternative dispute resolution process	Reference to the ADR process in PPP contracts	1	5
Alternatives to PPP	References to alternatives to PPP	5	13
Alternatives to PPP (2)	Reference to DPERs attitude to alternatives to PPP	1	1
Amber	Reference to Amber	3	10
AMP	Reference to AMP	1	1
Anti-private sector risks	Reference to anti-private sector risks	1	4
Appeals	Reference to appeals in PPP	4	4
Applegreen	Reference to Applegreen	1	1
Arbitration	Reference to arbitration in PPP	3	7
Archaeological issues	References to archaeological issues with projects	2	3
Attitude to PPP	Reference to public sector attitude to PPP	3	13
Attitude to PPP (2)	Reference to DPERs attitude to PPP	2	11
Attracting bidders	Reference to attracting bidders	12	78
Attracting private investment	Reference to whether the right actions are taken by government to attract private investment, including developing the domestic capital market	7	24
Availability risk	Reference to availability risk in PPP	3	6
Aviva	Reference to Aviva as an independent investor	1	1
Awareness of PPP projects	Reference to the awareness of interviewees to PPP projects prior to working on this policy	1	1
Awareness of PPPs successes and failures	Reference to the awareness of PPP success and failures elsewhere	2	5
Balance of risks	Reference to the balancing of risks	1	1
Balfour Beatty	Reference to Balfour Beatty	1	3
BAM	Reference to BAM	7	24
BAM (2)	Reference to BAM being a key stakeholder in PPP	1	1
Banking competition	Reference to banking competition held as a separate competition post-crisis	2	8

[31] Codebook -Phase 2 – Generating Initial Coding (Open Coding) involved deconstructing the data from its original chronology into an initial set of non-hierarchical codes

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Banking competition (2)	Reference to banking competition as a separate competition	1	5
Banks	Reference to Banks	3	13
Banks (2)	Reference to the Banks being key stakeholders	4	4
Benchmarking	Reference to benchmarking in contracts	2	11
Benchmarking and market testing	Reference to benchmarking and market testing in the context of transparency	3	3
Benchmarking market testing	Reference to how services can be benchmarked and market tested	1	10
Benchmarking schedule in contracts	Reference to benchmarking schedule built into contracts	1	2
Benefit to private providers	Reference to what's in it for the private sector	2	4
Benefits to the community	Reference to benefits of PPP to the community	1	1
Bid costs and length of time	Reference to whether the cost and length of time of PPP procurement to the public and private sector has been reduced	13	73
Bid evaluation criteria	Reference to whether all interested competitors are informed in advance of projects, how bidders are evaluated and what criteria are used to award contracts	12	29
Bid opening	References to the NDFA and opening bids	4	14
Bid process	Reference to transparency in the bidding process	4	20
Bidders	Reference to bidders being stakeholders in PPP	2	6
Bidding stage	Reference to the bidding stage of PPP	8	44
Bilfinger	Reference to Bilfinger	1	2
Board of NDFA	References to the board of the NDFA	1	12
Bond market	Reference to the bond market	1	2
Brexit	Reference to the affect Brexit may have on the PPP programme	1	3
Brian Murphy	Reference to Brian Murphy of the NDFA	3	8
Build risk	Reference to build risk in PPP	2	3
Building infrastructure	Reference to building infrastructure as a reason for PPP	6	14
Bunching of projects	References to bunching of projects	7	18
Business Case	Reference to the business case stage of PPP	2	8
C&AG	Reference to the Comptroller and Auditor General	6	16
Cancelled projects	Reference to cancelled projects	9	28
Capital Plan	Reference to the 2015 Capital Plan	2	2
CCJ	Reference to the Criminal Courts of Justice PPP	8	43
Certainty	Reference to how PPP offers certainty	1	2
Champions of PPP	Reference to champions of PPP in government Departments	1	4
Change in funding post-crisis	Reference to how funding of PPP has changed post-crisis	1	2
Change of government		4	4

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Change of law risk	Reference to how risks are identified and allocated	3	7
Change of Technology risk	References to changes in technology and how they are dealt with in PPP contracts	2	2
Changes to policy	Reference to policy changes made to accommodate PPP	1	1
Changing contracts	Reference to changing contracts	2	6
Cheaper	Reference to PPP being cheaper	2	2
CIF	Reference to the Construction Industry Federation	1	2
Commercial Sensitivity	Reference to commercial sensitivity in relation to transparency	9	28
Commitment to PPP		2	3
Common factor	Reference to how the NDFA are the common factor on all PPPs	1	2
Competition in the market	Reference to competition in the market of private providers	1	7
Competitive dialogue	Reference to competitive dialogue	1	3
Competitive dialogue (2)	Reference to competitive dialogue in PPP	2	4
Complaints	Reference to complaints made about PPPs	2	2
Complexity of PPP process	References to how complex the PPP process is	1	1
Complexity of PPPs	Reference to complexity of PPPs	2	2
Compliance	Reference to compliance in PPPs	1	2
Concert Hall	Reference to the Concert Hall PPP	2	3
Concession	References to the role of the NDFA in concession type projects	1	3
Concession (2)	Reference to a concession	2	7
Concession type projects	References to the regulatory framework and concession type projects	1	1
Confidentiality	Reference to interviewees who were not privy to all information due to bid confidentiality	5	9
Consistency of design	Reference to replication and consistency of design in PPP	1	1
Consortia	Reference to the Consortia in PPP	2	13
Construction staff	Reference to finding construction staff immediately post-crisis	1	1
Construction stage	Reference to the construction stage of PPP	2	2
Consultants	Reference to the use of Consultants or outside experts in the NDFA	8	20
Consultation with bidders	Reference to consultations sessions between the NDFA and bidders	4	11
Consultation with stakeholders	Reference to consultation with stakeholders on PPP projects	4	8
Consulting with DPER	References to consultations with DPER	1	2
Contract creep risk	Reference to the risk of contract creep	1	2
Contract failures	Reference to contract failures within a PPP	3	14
Contract management	Reference to contract management in PPP	2	3

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Contract obligations	Reference to contract obligations	4	5
Contract oversight	Reference to contract oversight in PPP	2	6
Contractor insolvency documents	Reference to a standard contractor insolvency document	1	1
Contractors going out of business	Reference to contractors going out of business	1	3
Convention Centre	Reference to the Convention Centre PPP	2	53
Carillion	Reference to Carillion	1	1
Cork School of Music	References made to the Cork School of Music	4	9
Creditability of PPP programme	Reference to whether the PPP programme is credible to the market and does it attract strong market interest	7	28
D&C Co	Reference to D&C Co	1	6
DB	Reference to projects that are design/build	3	6
DBFO	Reference to design, build, finance and operate type of PPP	3	5
DBO	Reference to Design, Build and Operate contracts	1	6
Debate over PPP	Reference to reasons for PPP and the debate over PPP	6	16
Debate over PPP (2)	Reference to reasons for PPP and the debate over PPP	4	7
Debriefing of failed bidders	Reference to debriefing of failed bidders	6	16
Debt funders	Reference to debt funders	2	3
Deciding on what to bid on	Reference to how the private sector decide on what to bid on	2	9
Decision-making	Reference to how DEPER make decisions on budget allocations	6	24
Decision to go PPP route	Reference to transparency on the decision to go the PPP route rather than traditional procurement	1	2
Delivering the project	Reference to the delivery of PPPs	7	11
Delivery of public services	References to the delivery of public services by the private sector	1	1
Department of Education	Reference to Dept of Education	6	18
Department of Environment	References to the involvement of the Department of Environment in the PPP process	4	6
Department of Finance	References to Dept of Finance	9	13
Department of Health	References to the Department of Health	1	3
Department of Justice	References to Dept of Justice and PPPs	2	17
Department of Public Expenditure and Reform	References to DEPOR	0	0
Department of Tourism	Reference to the Dept of Tourism	1	2
Department of Transport	References to the Department of Transport	4	6
DEPFRA	Reference to DEPFRA	1	1
Design and Construction	Reference to design and construction in PPP	4	8
Design risk	Reference to design risks associated with PPP	3	6
Design Stage	Reference to the role of the NDFA in the design stage	4	14

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Detail in contracts	Reference to the level of detail in contracts	2	6
Developing policy	Reference to how policy is developed	1	1
Dispute resolution procedure	Reference to dispute resolution procedure	7	18
Domestic Banks	Reference to domestic banks involved in PPP funding	5	12
DOP Process	Reference to DOP process	1	1
DPER rules	Reference to DPER spreading rules	1	2
Dragados	Reference to Dragados	2	2
Dublin City Council	Reference to Dublin City Council	1	2
Dutch Infrastructure Fund	Reference to the DIF who are funders in the schools consortia	1	2
Economic competitiveness reasons	Reference to the reason for bringing in PPP, that is to ensure Ireland has the infrastructure to compete	2	2
Economic issues	Reference to economic issues with PPP	2	2
Education projects	Reference to education projects	11	65
Efficiencies	References to the efficiencies of doing business in a functional building	2	3
EIB	References to EIB	2	4
Enabling policy	Reference to how the NDFA enable PPP policy	1	2
End of contract stage	Reference to the end of the PPP contract and what happens to the asset	2	3
Engagement with the public	Reference to engagement with the public	1	4
Environment Waste projects	References to Environment Waste projects	3	7
Environment Water projects	Reference to Environment/Water projects	2	9
EPEC	Reference to the European PPP Expertise Centre	1	1
Equity Funders	Reference to attracting equity funders	3	9
Equity funders (2)	Reference to equity funders as stakeholders in PPP	1	1
European Commission	References to DPERs interaction with the EU	1	1
Expertise	Reference to expertise in the NDFA	3	8
Facilities risk	Reference to facilitates risk in PPP	2	3
Failure of performance of service risks	References to failure of performance of service risks	1	1
Failure to deliver a programme risk	Reference to the governments failure to deliver a PPP programme as a risk	1	1
Fairness	Reference to fairness in PPP process	5	20
Familiarity with Irish Market	Reference to private providers who are familiar with the Irish market	3	16
Fatima Mansions	References to Fatima Mansions PPP	1	1
Feedback to bidders	Reference to transparency in relation to feedback to bidders	1	3
Ferrovial	Reference to Ferrovial	2	2
Finance risks	References to finance risk in PPP	4	4

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Financial Advisors	Reference to the NDFA being financial advisors on PPP projects	6	13
Financial crisis	Reference to the NDFA during the financial crisis	1	1
Financial Statements	Reference to financial statements	1	1
Finding funders	Reference to how the NDFA find PPP funders	2	6
Finding projects	Reference to the role of the NDFA in finding projects	3	6
Fixed cost procurement	Reference to how PPP is a fixed cost procurement method	1	2
Freedom of information	Reference to interviewees mentioning FOI with regard to transparency	5	15
Funders	Reference to the role of the funders in PPP	2	5
Funding competition	Reference to funding competitions after selection of the preferred bidder	2	6
Funding reasons	Reference to how the government identified projects due to funding issues	8	26
Future projects	Reference to future projects which could be built through PPP	1	3
Garda Stations	Reference to Garda Stations PPP	2	9
General Election	References to the 2016 General Election	4	7
General risks	Reference to how risks are dealt with in general	2	5
Giving bidders a fair chance	Reference to giving smaller bidders and bidders who haven't bid in the Irish market before a chance	1	1
Government	Reference to Government being a key stakeholder	6	6
Government support for private providers	Reference to whether there is government support for private providers such as is there a clear pipeline of projects visible and does the government ensure even-handed regulation	5	10
Grangegorman	Reference to Grangegorman PPP	8	54
Grangegorman Development Agency	Reference to the GDA being a PPP stakeholder	1	1
Guidance material	Reference to whether guidance materials for the use and benefit of the private sector have been published	5	15
Guidance Material (2)	Reference to guidance material	5	22
Guidance Material (3)	Reference to DPER issuing guidance material	1	1
Hammond Lane and Court Houses	Reference to Hammond Lane and Court Houses PPP	4	40
Handover stage	Reference to the stage when the building is finished construction and is handed over	1	1
Health projects	Reference to PPP Health projects	5	19
Hegarty	Reference to Hegarty's	1	3
Help Desk	Reference to the use of a help desk in PPPs	1	4
Heritage buildings	References to PPPs and heritage buildings	2	5
HSE	Reference to the HSE	2	2
ICC	Reference to International Convention Centre	1	1
ICT Risk	References to ICT risk in PPP	0	0

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Idenfication of projects	Reference to how PPP projects are identified	3	9
Ideological reasons	Ideological reasons for adopting PPP	3	8
Ideology	Reference to ideology in PPP	1	1
Improving Quality	Reference to whether PPP has improved the quality of infrastructure	10	27
Independent tester	Reference to an independent tester who reviews the PPP after construction and before it is handed over to the operational stage	1	1
Information Commissioner	Reference to the NDFA and Information Commissioner in relation to transparency	1	3
Information Commissioner (2)	Reference to Information Commissioner, commercial sensitivity and DEPER	1	3
Innovation	Reference to how difficult it is to price innovation	2	2
Innovation (2)	References to innovation in PPP	4	19
Institutional money	Reference to institutional money	2	8
Insurance risk	Reference to insurance risk	1	1
Integrity of PPP projects	Reference to whether the interviewee believes there is integrity in the project	8	14
Interaction between private providers	Reference to the possible interaction between private providers	3	6
Internal audits	Reference to monthly internal audits	1	1
Internal Government reporting	Reference to internal government reporting	1	1
Investment Policy Framework for PPPs	Reference to the Investment Policy Framework for PPPs	1	3
IOTs	Reference to PPPs in the IOT sector	1	3
IPFA	Reference to the IPFA	1	4
Irish Strategic Infrastructure Fund	Reference to the Irish Strategic Infrastructure Fund formally the NPRF and part of the NTMA umbrella group	2	14
Irish Strategic Investment Fund	Reference to the Irish Strategic Investment Fund	1	1
Irish Water	Reference to Irish Water	2	5
Issues with contracts	Reference to any issues with contracts	10	50
Issues with how bids get marked	Reference to issues that the private sector have on how bids get marked	3	13
Issues with Passport Office	Reference to learning from issues with Passport Office in UK	1	1
Issues with risk transfer	Reference to issues with the Irish public sector and risk transfer	6	26
Issues with risk transfer (2)	Reference to issues with risk transfer	4	12
Jacobs Engineering	Reference to Jacobs Engineering	1	1
Journalists	Reference to transparency and journalists	1	1
Justice projects	Reference to justice projects that the interviewee worked on	7	57
Kajima	Reference to Kajima	1	2
Keeping market informed	Reference to how well the NDFA keep the market informed	2	9
Key stakeholders	Reference to who the key stakeholders in PPP are	2	3

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
KPI	Reference to measurable KPI in contracts	1	5
KPMG	Reference to the services of KPMG	1	1
Lack of competition	Reference to a lack of competition in the market	1	4
Land acquisition risk	Reference to land acquisition risk	2	2
Latent defect risks	Reference to latent defect risks in projects	2	8
Leadership	Reference to whether the NDFA provides leadership in PPP	6	15
Leadership (2)	References to the leadership that the Dept of Finance provide in PPP	2	2
Leadership (3)	Reference to the leadership that DEPOR provide in PPP	5	15
Learning by doing	Reference to learning by doing	12	34
Learning by DPER	References to learning by DPER	1	2
Learning from Australia	Reference to learning from Australia	2	2
Learning from Canada	Reference to learning from Canadian PPPs	2	2
Learning from CCJ	References to learning from the CCJ	1	2
Learning from Commonwealth law countries	Reference to learning from Commonwealth law countries	1	2
Learning from early projects	Reference to learning from early PPP projects	8	31
Learning from France	Reference to learning from France	2	2
Learning from Germany	Reference to lessons learnt from Germany	1	1
Learning from Northern Ireland	References to experiences learnt from NI PPP projects	4	6
Learning from Portugal	Reference to learning from Portugal	1	1
Learning from PPP Steering Committee	Reference to learning from the PPP Steering Committee	1	2
Learning from private sector	Reference to people who were previouslyin the private sector and learnt from there	1	1
Learning from Scotland	Reference to learning from Scotland	4	18
Learning from Spain	Reference to learning from Spain	2	2
Learning from UK	References to policy learning from UK	12	58
Learning from UNECE	References to learning from UNECE	1	1
Learning from US	Reference to learning from US	2	4
Learning internationally	References to learning from international PPPs	3	7
Learning on the job	Reference to public sector staff learning on the job	2	2
Learning post-crisis	Reference to learning post-crisis	1	2
Legal advisers	Reference to legal advisers being stakeholders of PPP	2	2
Legal Advisors	Reference to the NDFA and legal advisors	3	3
Legal challanges	Reference to legal challenges	4	8
Level of service	Reference to the level of service provided by PPP	3	5

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Life cycle costs	Reference to life cycle costs in PPP	2	8
Line Agency discretion	Reference to what is the line of responsibility in PPP decision-making and who are the key decision-makers	1	2
Liquidation	Reference to private contractors who went into liquidation during the bust	1	1
Litigation in the bidding process	Reference to the opening of bids and potential for suing	3	8
Load risk	Reference to load risk in Poolbeg PPP	1	1
Lobbying DPER by NDFA	References to the lobbying of DOER by the NDFA	1	1
Local Authorities	References to local authorities	3	6
Local Community	Reference to PPP accountability to the local community	1	2
Local construction companies	Reference to local construction companies bidding on projects	2	5
Luas	Reference to the Luas project	1	1
Maintenance provider	Reference to maintenance providers	3	9
Maintenance risk	Reference to maintenance risk in PPP	5	5
Making unrealistic commitments	Reference to whether the NDFA make unrealistic commitments on behalf of government	2	5
Managing contracts	Reference to managing contracts	2	5
Maritime College	References made to Maritime College	2	4
Market	Reference to the Market as being a key stakeholder in PPP	1	1
Market Participant	Reference to a market participant (someone close to the market)	1	8
Market post-crisis	Reference to the market of private providers post-crisis	1	20
Market pre-crisis	Reference to the market of private providers pre-crisis	1	3
Market testing	Reference to market testing in contracts	1	3
McCanns	Reference to the legal advisors McCanns	1	1
McQuarry	References to McQuarry	5	10
McQuarry (2)	Reference to McQuarry being a stakeholder in PPP	1	1
Meet the Buyer events	Reference to meet the buyer events held by the NDFA	1	2
Meetings with NDFA	Reference to meetings the private sector have with the NDFA	1	3
Merger with TII		7	37
Metro West project	Reference to Metro West project	3	9
Minister for Education	Reference to the Minister for Education	1	1
Minister for Transport	Reference to the Minister for Transport	1	1
Mistrust between public and private	Reference to mistrust between public and private sectors	1	1
Mitchell McDermott	Reference to Mitchell McDermott who are project managers involved with PPP	1	9
Monitoring	Reference to monitoring of performance	1	3
Monitoring Committee	Reference to DPER and Monitoring Committee of PPPs	1	1

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Monte Carol risk analysis	Reference to Monte Carlo risk analysis	1	1
Mortgage	Reference to interviewees calling a PPP a mortgage	2	6
Motorway Service Stations	Reference to Motorway Services Stations built through PPP	1	1
NAMA	Reference to NAMA	1	3
National Partnership Agreement	Reference to the National Partnership Agreement and PPP	1	4
NDFA (2)	Reference to the NDFA being a key stakeholder	4	7
NDFA (3)	Reference to NDFA and Transparency	9	27
NDFA (4)	Reference made by DPER to NDFA	1	31
NDFA and fairness	Reference to NDFA and fairness of the PPP process	5	7
NDFA staff and recruitment	Reference to where the staff of the NDFA come from	10	43
NDFA training	Reference to training given by the NDFA and training of their staff	5	9
NEC	Reference to the NEC Birmingham	1	9
Negotiation	Reference to negotiation when there are problems in contracts	1	2
Negotiation over risks	References to negotiation over risks	2	4
Negotiation stage	Reference to the contract negotiation stage	3	4
New Era	Reference to New Era	1	3
Non-conforming Node	Reference to interview dialogue which cannot be coded to any nodes	4	24
Nordel B	Reference to Nordel B	1	1
NTMA	Reference to the National Treasury Management Agency	6	10
O&M Co	Reference to O&M Co	1	10
O'Devaney Gardens	Reference to O'Devaney Gardens	1	1
Office of Government Procurement		1	2
On Off Balance Sheet	Reference to the reasons for bringing in PPP	8	18
Only game in town	Reference to PPPs being the only game in town	1	2
Only show in town	Reference to how PPP is the only show in town	1	1
Operational reports	Reference to operational reports	4	8
Operational risks	References to operational risks in PPP	2	9
OPW	Reference to PPP accountability to OPW	1	14
OPW (2)	References to the OPW and PPP	3	27
OPW (3)	Reference to the OPW being a key stakeholder in PPP	1	2
OPW (4)	Reference to OPW and transparency	1	3
OPW decentralised offices	Reference to OPW decentralised offices	1	2
OPW learning	Reference to the learning of the OPW based on past PPP projects	3	4

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Organogram	Reference to a PPP organogram	1	4
P3	Reference to P3	1	2
PAC	Reference to the Public Accounts Committee	1	5
Pario	Reference to Pario who are the special purpose managers of the schools contract	1	5
Party best able to manage risk	Reference to risks that either the public or private sectors are best able to manage	5	12
Party preferences for PPP	Reference to party preferences for PPP	1	2
Paying more	Reference to how PPP costs more than traditional procurement in the long run	4	4
Penalties	Reference to penalties when there is contract failure within PPP	3	16
Performance of PPPs	Reference to the performance of PPPs	10	46
Performance points	Reference to performance points within PPP contracts	2	6
Permanent Government	Reference to the Permanent Government	1	1
Prescriptive nature of bidding	Reference to how prescriptive bidding has become	2	6
PFI	Reference to PFI in the UK	8	32
Phase 1 PPP projects	Reference to Phase 1 PPP projects post-crisis	1	1
Phase 3 PPP projects	Reference to Phase 3 PPP projects post-crisis	1	8
Pierce	Reference to the building company Pierce	1	1
Pierce (2)	Reference to Pierce being a key stakeholder	1	1
Pilot projects	Reference to pilot PPP projects	3	5
Pilot Schools project	Reference to the schools pilot project	7	11
Pipeline of projects	Reference to how well the project pipeline is managed to avoid bunching	10	57
Planning permission	Reference to how planning permission is put in place before going to the market which is a post-crisis feature	1	3
Planning risks	References to planning risks in PPP	2	3
Planning Stage	References to the planning stage of contracts	1	1
Planning stage (2)	References to planning stage	5	22
Policy development	Reference to whether the NDFA has a role in policy development	8	18
Policy Transfer	Reference to PT as a reason for adopting PPP	2	3
Policy updates	References to policy updates	1	4
Political announcements	Reference to political announcements in PPP	1	1
Political commitment initially	Reference to political commitment for PPP policy initially when the policy was being considered	5	10
Political commitment post-crisis	Reference to political commitment post-crisis	13	64
Political commitment pre-crisis	Reference to political commitment after the policy was adopted but before the crisis	6	14
Political decision-making	References to political decision-making as a reason for choosing PPP	6	12

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Political frustration	Reference to political frustration in the pace of PPPs	1	2
Political lack of understanding	Reference to a political lack of understanding of PPP	1	4
Political objections	References to political objections of PPP	2	3
Political planning	Reference to political planning in Ireland	1	5
Political preferences	Reference to whether political preferences enter into PPP decisions	7	21
Political preferences (2)	Reference to political preferences influencing PPP	5	13
Political risk	Reference to how risks are identified and allocated	4	8
Political risks	Reference to political risks in terms of PPP	5	9
Political shortsightness	Reference to PPP and political shortsightness	4	6
Poor government planning	Reference to PPPs and poor government planning	2	2
Post-crisis PPP programme	Reference to changes that the NDFA made to the post-crisis PPP programme	2	2
Post-Project Reviews	Reference to post-project reviews	2	12
Post-project reviews (2)	Reference to post-project reviews	1	7
PPP Co	Reference to PPP Co	8	18
PPP Legislation	Reference to PPP legislation in relation to regulatory framework	6	7
PPP Lobby Groups	Reference to PPP lobby groups before the policy was adopted	1	2
PPP or nothing or Pragmatism	Reference to infrastructure delivery through PPP or not at all and pragmatism as a reason for PPP	4	10
PPP policy	Reference to PPP policy	2	2
PPP service delivery	Reference to PPP service delivery	7	18
PPP unit	Reference to PPP Unit/NDFA in relation to regulatory framework	1	2
PPP vs Conventional	Reference to interviewees who compare PPP vs Conventional approach	11	47
Pre-award stage	Reference to pre-award stage of the PPP process	1	1
Pre-crisis oversight	Reference to independent oversight pre-financial crisis	1	1
Preferred bidder	Reference to preferred bidder	1	2
Preferred bidder (2)	Reference to preferred bidder	1	1
Preferred bidder (3)	Reference to preferred bidder	1	5
Preferred Bidder Stage	Reference to the preferred bidder stage	6	13
Preferred Tenderer	References to preferred tenderers	2	5
Pre-tender Stage	References to the pre-tender stage	2	2
Primble	Reference to Primble who are part of the consortia	1	1
Private Maintenance	Reference to private maintenance as a reason for PPP	4	8
Problems with PPPs	Reference to problems with PPPs	3	9
Problems with Risk Transfer	References made to problems with risk transfer	6	8

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Process driven	References to NDFA being overly process driven	4	16
Procurement law	Reference to procurement law	1	1
Procuring Departments	Reference to procuring departments being key stakeholders in PPP	1	2
Profit returns to government	Reference to the profit returns to the government	1	1
Profit sharing	Reference to profit sharing issues in PFI	2	4
Project Finance	Reference to project finance in PPP	1	1
Project Managers	Reference to project managers in the NDFA and their role	2	5
Project timing	Reference to whether information on project timing is given early so that bidders are able to allocate resources appropriately and prioritise projects. Also references to clear line of sight of PPP projects	6	26
Promoting PPP	Reference to how the NDFA promote PPP	7	21
PSB	Reference to NDFA and PSB	5	6
PSB (2)	Reference to guidance on PSB	1	3
PSB (3)	References to the Public Sector Benchmark	7	20
PSB and VFM test	References to PSB and VFM testing of PPP	1	13
PSB update	Reference to DPER updating the PSB	1	1
Public sector preferences	Reference to public sector preference for PPP or traditional procurement	2	3
Public Spending Code	Reference to DPER and public spending code	1	1
Publication	Reference to whether the basis on which the proposals are evaluated are made public	3	13
PWC	References to PWC and PPP	2	3
Quality of materials	Reference to quality of materials used in PPP	11	22
Quality of service	Reference to PPPs and quality of service	6	15
Rebalancing of interests	Reference to re-balancing of interests in PPP	5	11
Re-balancing of interests	References to re-balancing of interests in contracts	4	13
Redacted documents	Reference to NDFA redacted documents	1	1
Redress to Courts	Reference to redress to the Courts in disputes	5	9
Redundancy	Reference to redundancy of NDFA staff	1	1
Refinancing gain share	Reference to refinancing gain share in PPP	1	2
Refurbishment cycle	References to refurbishment cycles of PPP buildings	1	1
Regulation at bidding stage	Reference to PPP regulation at the bidding stage	3	4
Regulatory framework post-crisis	Reference to the regulatory framework post-crisis	1	2
Reinvestment	Reference to how PPP results in reinvestment	1	1
Relationship with public sector	References to the relationship between the private providers and the public sector	4	10
Reports sent to DEPER	Reference to reports sent to DEPER	1	1

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Retention fees	Reference to whether the NDFA pay staff retention fees	1	2
Revenue share	Reference to lessons learnt on revenue sharing	1	1
Review accounts	Reference to NDFA reviewing accounts	1	1
Richard Boyd-Barrett	Reference to Richard Boyd-Barrett	1	2
Rigid	Reference to how rigid the NDFA are	2	7
Risk allocation stage	Reference to the risk allocation stage of the PPP process	2	3
Risk and PSB	References to risk and PSB	2	3
Risk mitigation process	Reference to the risk mitigation process	1	2
Risk registers	Reference to risk registers	1	2
Risk Transfer	Reference to NDFA and how they negotiate risk transfer	2	6
Risk Transfer (2)	Reference to risk transfer as a reason for using PPP	4	13
Risk Workshops	Reference to risk workshops	1	2
Risks	Reference to different types of risks	0	0
Roadbridge	Reference to Roadbridge	1	1
Robertsons	Reference to Robertsons	1	1
Robustness	Reference to the robustness of PPPs	1	1
Role in budget allocation	References to the NDFA's role in department budget allocations	1	2
Role of DPER	Reference to the role of DPER in PPP	1	7
Role of NDFA	Reference to the role of the NDFA	14	107
Rules of engagement	Reference to the NDFA reading out rules of engagement at meetings with private sector	1	4
Scalability	Reference to scalability of projects for the private sector	1	1
Scalability and pipeline	Reference to the size and scalability of projects and how the pipeline of projects can be too small for the private sector	11	65
Separating policy from practice	Reference to how the NDFA separates policy from practice to avoid the danger of it becoming a promoter of PPP	3	4
Service desk	Reference to a PPP service desk	1	2
Service reports	Reference to transparency in relation to service reports by private sector to the public sector	3	6
Sharing by Government Depts	Reference to transparency in the sharing by Government Departments	1	1
Sharing knowledge with other countries	References to sharing PPP knowledge with other countries	2	3
Short-cuts	Reference to how PPP companies can take short-cuts	1	2
SISK	Reference to SISK	5	6
SISK (2)	Reference to SISK being a key stakeholder	1	2
Size of Ireland	Reference to the size of Ireland being prohibitive to PPP	1	1
Slowness of PPP	Reference to how slow PPP is	2	11

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Social benefits	Reference to social benefits from building through PPP	1	1
Social Housing	Reference to Social Housing PPPs	5	18
Sodexo		1	19
Sovereign risk	Reference to sovereign risk	1	3
Special Purpose Vehicle	Reference to SPV	2	7
Specifications	Reference to detailed specifications given to bidders	5	10
Speed of PPP	Reference to the speed of the whole PPP process	5	9
Spending caps	Reference to spending caps put on PPPs by DPER	1	2
Staff mobility	Reference to whether staff move from private to public sector and vice-versa	3	6
Stakeholder buy-in	Reference to stakeholder buy-in into the PPP concept	2	4
Stakeholders needs	Reference to whether all the stakeholders want the same thing from PPP	8	12
Stakeholders opinion on transparency	Reference to stakeholders opinion on transparency	8	24
Stakeholders opinions	Reference to the interviewees perception of stakeholdes opinion of PPP	6	22
Standardised Contract and Documents	Reference to whether there are standardised contracts and documents	13	50
State Credibility	Reference to whether actions have been taken to sustain state credibility	6	10
Statute Procedure risk	Reference to statute procedure risk	1	1
Steering Committee	Reference to the PPP Steering Committee	1	1
Stephen Burgess	Reference to Stephen Burgess	1	1
Step-in rights	Reference to step-in rights in contracts	5	19
Stimulate the Economy	Reference to how PPP is being used to stimulate the economy in tems of jobs	1	1
Student Accommodation projects	References to student accommodation projects	2	19
Sub-contractor	References to sub-contractors	1	2
Supply chain	Reference to supply chain in the context of the presentation made at IPFA. That is reference to the availability of sub-contractors and staff post-crisis	1	2
Surveys	Reference to how users are surveyed	1	4
Sustainability	Reference to NDFA and sustainability of PPPs	1	1
Sustainability (2)	Reference to transparency and its affects on sustainability	1	2
Sustainability of PPPs	Reference to the sustainability of PPPs	1	4
Sustainability risk	Reference to the sustainability risk	1	1
Tax payer	Reference to the tax payer as a stakeholder	3	6
Technical advisers	Reference to technical advisers being stakeholders of PPP	1	1
Technical Advisors	Reference to the NDFA and technical advisors	4	6
Tender stage	Reference to the tender stage but not the NDFA	6	15

Phase 2 – 513 initial codes developed	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Tendering Process	Reference to the role of the NDFA in the tendering process	3	6
Third level colleges	Reference to third level colleges	1	4
Thornton Hall	Reference to Thornton Hall PPP	1	4
Too many obligations	Reference to how you can end up with too many PPP obligations	1	1
Trade Unions	References to Trade Unions in PPP	1	1
Traditional Procurement	Reference to design and build contracts and design and maintenance contracts ie traditional procurement	6	24
Traffic or Demand risk	Reference to the different types of risk involved in PPP	6	26
Training of public sector	Reference to whether training on PPP has been provided to public sector staff, and if so, what type of training	4	12
Transfer of Risks	Reference to the transfer of risks	1	2
Transport Infrastructure Ireland	References to TII	9	47
Transport Infrastructure Ireland (2)	Reference to TII being a stakeholder in PPP	1	1
Transport projects	Reference to transport projects that the interviewee worked on	10	58
Treasury Holdings	Reference to Treasury Holdings	1	16
Understanding of Public Sector	Reference to the understanding of the public sector of the whole PPP process	9	19
UNECE	References to UNECE	1	2
Unitary Charge	Reference to Unitary Charges made by interviewees	10	40
Unitary payment	Reference to the unitary payment and DPER	2	6
Unitary payments	Reference to the transparency of unitary payments	2	3
Unknown risks	Reference to unknown risks that are the most difficult to deal with	1	1
Unsuitability for all projects	Reference to how PPP is unsuitable for all types of projects	1	1
Use of consultants	Reference to the private providers use of consultants	3	4
Use of Consultants (2)	Reference to whether the public sector use outside expertise in PPP	4	8
Use of Consultants early days	References to the use of consultants in the early days of PPP	1	1
User guide to risk	Reference to a user guide to risk	1	1
Users of the facility	Reference to the users of the facility being a key stakeholder	4	10
Value for money	Reference to VFM carried out by NDFA	7	16
Value for money (2)	Reference to value for money of PPPs	13	94
Value for money (3)	Reference to VFM and transparency	3	5
Views of stakeholders of the NDFA	Reference to how the NDFA interacts with stakeholders	11	73
Visibility of programmes	Reference to visibility of PPP programmes	1	2
Winners and losers in bidding	Reference to winners and losers in the bidding process	2	9
Workshops	Reference to workshops held with bidders	2	9

Appendix F [32]: Codebook\\Phase 3 - Searching for Themes

Phase 3 – 513 mapped to 21 categories of codes	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Stages in PPP	Reference to different stages of PPP process	22	356
NDFA	Reference to the National Development and Finance Agency and whether it provides leadership in the PPP process, does it have a role to play in policy development, how does it interact with stakeholder, recruitment of staff, how does it separate policy from practice and does it provide advisory work	25	928
Complaints and arbitration	Reference to whether there is a complaints and arbitration procedure for both sides and does it work	13	53
Coordinate deal flow	Reference to the pipeline of projects, clear communication of upcoming projects, project timing, clear explanation and guidance	15	140
Externalities	Reference to Externalities	9	20
Fairness of PPP procurement	Reference to the integrity of the project, is the selection and award criteria neutral and fair to all bidders and is there an avenue for complaint to an independent tribunal	15	59
Market of private providers	Reference to whether a market of private providers has been established such as whether the PPP programme is credible to the market and if it attracts strong market interest, does it attract private investment , is there guidance material for the use of the private sector, has anything been done to reduce the cost and length of time of PPP procurement	24	1480
Non-conforming Node	Reference to interview dialogue which cannot be coded to any nodes	4	24
Performance of PPPs	Reference to the performance of PPPs	12	52
Policy learning	Reference to whether policy learning took place around the PPP policy	25	537
Political commitment	Reference to political commitment for PPP	22	223
PPP programme accountability	Reference to whether performance assessment and measurement of PPPs is set out in contracts and is it monitored	19	251
Public sector knowledge	Reference to public sector knowledge of PPPs	26	464
Quality of projects	Reference to how PPP projects are identified, are they of a higher or lower quality than traditional procured projects, has a strong private consortium been selected, are risks identified early, is there good project management, step-in clauses	25	425
Reasons against PPP	Reference to reasons against using PPP	23	151
Reasons for adopting PPP	Reference to the different reasons for adopting the PPP policy	25	511
Regulatory Framework	Contains references to a PPP unit, PPP legislation, standardised contracts and documents	23	257
Stakeholders	Reference to the key constituents or stakeholders in PPP and whether there has been buy-in and if they all want the same thing	23	335
Transparency	Reference to how good transparency is in PPP, is there enough or too much, are all interested competitor	22	412

[32] Codebook – Phase 3 – Searching for Themes (Developing Categories) – involved merging, renaming, distilling and clustering related coded into broader categories of codes to reconstruct the data into a framework that makes sense to further the analysis.

Phase 3 – 513 mapped to 21 categories of codes	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
	informed in advance of projects, how are bidders evaluated, what criteria are used and has the basis on which the proposals are evaluated been made public		
Types of PPP	Reference to different types of PPP	17	83
Types of projects	Reference to the types of projects the interviewee worked on	26	1020

Appendix G[33]: Codebook\\Phase 4 - Reviewing Themes

Phase 4 – 513 mapped to 21 categories further mapped to 4 sub-themes	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Legitimacy		**26**	**2381**
Transparency	Reference to how good transparency is in PPP, is there enough or too much, are all interested competitors informed in advance of projects, how are bidders evaluated, what criteria are used and has the basis on which the proposals are evaluated been made public	23	441
Regulatory Framework	Contains references to a PPP unit, PPP legislation, standardised contracts and documents	24	285
NDFA	Reference to the National Development and Finance Agency and whether it provides leadership in the PPP process, does it have a role to play in policy development, how does it interact with stakeholder, recruitment of staff, how does it separate policy from practice and does it provide advisory work	26	990
Political commitment	Reference to political commitment for PPP	22	226
Stakeholders	Reference to the key constituents or stakeholders in PPP and whether there has been buy-in and if they all want the same thing	24	356
Types of PPP	Reference to different types of PPP	17	83
Trust		**23**	**366**
Complaints and arbitration	Reference to whether there is a complaints and arbitration procedure for both sides and does it work	13	53
Fairness of PPP procurement	Reference to the integrity of the project, is the selection and award criteria neutral and fair to all bidders and is there an avenue for complaint to an independent tribunal	16	63
PPP programme accountability	Reference to whether performance assessment and measurement of PPPs is set out in contracts and is it monitored	20	250
Capacity		**27**	**3394**
Market of private providers	Reference to whether a market of private providers has been established such as whether the PPP programme is credible to the market and if it attracts strong market interest, does it attract private investment , is there guidance material for the use of the private sector, has anything been done to reduce the cost and length of time of PPP procurement	25	1695
Coordinate deal flow	Reference to the pipeline of projects, clear communication of upcoming projects, project timing, clear explanation and guidance	16	141
Performance of PPPs	Reference to the performance of PPPs	13	54

[33] Codebook – Phase 4 – Reviewing Themes (Drilling Down) involved breaking down the now reorganised categories in to sub-themes to better understand their meaning.

Phase 4 – 513 mapped to 21 categories further mapped to 4 sub-themes	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
Policy learning	Reference to whether policy learning took place around the PPP policy	26	557
Public sector knowledge	Reference to public sector knowledge of PPPs	27	516
Quality of projects	Reference to how PPP projects are identified, are they of a higher or lower quality than traditional procured projects, has a strong private consortium been selected, are risks identified early, is there good project management, step-in clauses	26	431
Other		**27**	**2228**
Stages in PPP	Reference to different stages of PPP process	23	319
Externalities	Reference to Externalities	9	20
Non-conforming Node	Reference to interview dialogue which cannot be coded to any nodes	4	24
Reasons against PPP	Reference to reasons against using PPP	24	155
Reasons for adopting PPP	Reference to the different reasons for adopting the PPP policy	26	538
Project portfolio	Reference to the types of projects the interviewee worked on	27	1172

Appendix H: Grouping by the literature of the broader themes under the main themes

Legitimacy	Capacity	Trust	Others
Transparency (Matos-Castaño et al., 2012) (Jooste et al., 2009) (Matos-Castaño et al., 2014) (Verhoest et al., 2015)		Transparency (Matos-Castaño, 2011)	
Regulatory framework (Jooste et al., 2009)	Market of private providers (Matos-Castaño, 2011) (Jooste, Levitt and Scott, 2009) (Matos-Castaño et al., 2012)	Complaints and arbitration (Matos-Castaño, 2011) (Matos-Castaño et al., 2012)	Externalities
Coordinate deal flow (Matos-Castaño, 2011)	Coordinate deal flow (Jooste, Levitt and Scott, 2009) (Matos-Castaño et al., 2012)		
Fairness of PPP procurement (Verhoest et al., 2015)		Fairness of PPP procurement (Matos-Castaño, 2011) (Matos-Castaño et al., 2014)	
NDFA (Matos-Castaño, 2011)	NDFA (Jooste, Levitt and Scott 2009) (Matos-Castaño et al., 2012) (Verhoest et al., 2015)		
			Non-conforming node
Political commitment (Matos-Castaño, 2011), (Joosteet al., 2009), (Matos-Castaño et al., 2012), (Matos-Castaño et al., 2014) (Verhoest et al., 2015)		PPP programme accountability (Matos-Castaño et al., 2012) (Verhoest et al., 2015)	Reasons for adopting PPP
	Performance of PPPs (Matos-Castaño et al., 2014) (Jooste, Levitt and Scott, 2009)	Performance of PPPs (Matos-Castaño, 2011)	
Stakeholders (Matos-Castaño, 2011) (Matos-Castaño et al., 2012) (Jooste et al., 2009)	Policy learning (Jooste, Levitt & Scott, 2009) (Verhoest et al., 2015) (Matos-Castaño et al., 2012) and (Matos-Castaño et al., 2014)		Reasons against adopting PPP
Types of projects (Matos-Castaño, 2011) (Verhoest et al., 2015)	Public sector knowledge (Matos-Castaño, 2011)		Stages in PPPs

	(Matos-Castaño et al., 2012)		
	Quality of projects (Jooste, Levitt and Scott, 2009) (Matos-Castaño, 2011) (Matos-Castaño et al., 2012), (Matos-Castaño et al., 2014) and (Verhoest et al., 2015)		Types of PPP

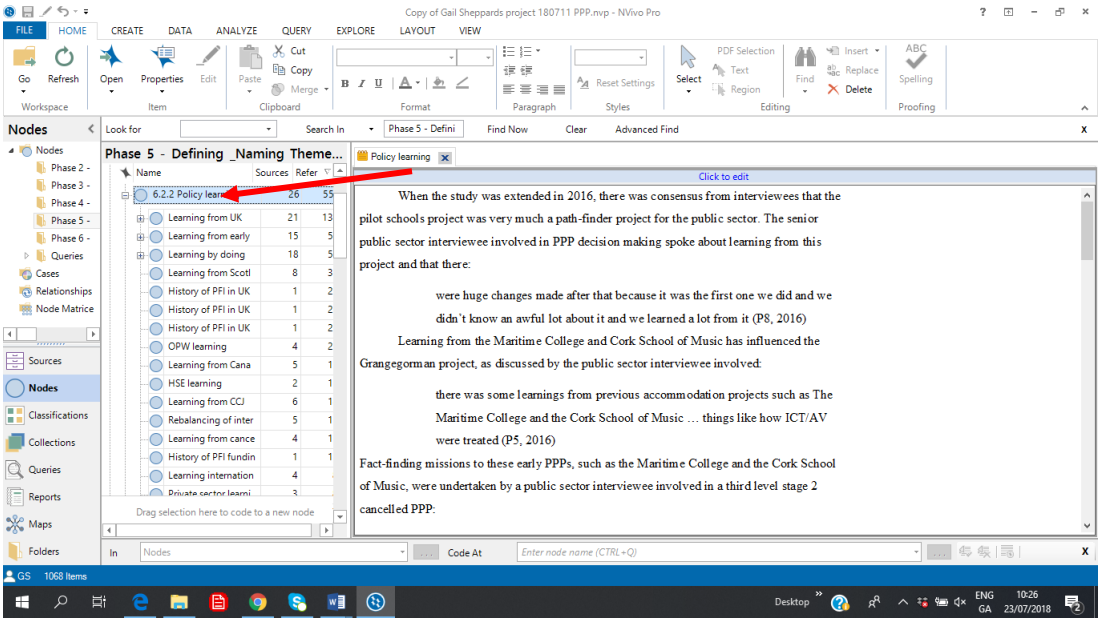
Appendix I [34]: Codebook\\Phase 5 - Defining & Naming Themes

Phase 5 – 4 sub-themes refined to 3 themes which were defined and numbered	Code Definitions for Coding Consistency (Rules for Inclusion)	Sources	Number of text blocks
5.3 Theme 1 Legitimacy	**The extent to which PPP delivery is accepted by a variety of constituents, including government agencies, users, the general public, and private industry (Jooste, 2010)**	**27**	**3527**
5.3.1 Lead institutional support	Reference to the NDFA	26	990
5.3.2 Political support	Reference to political commitment, transparency and a regulatory framework	26	952
5.3.3 Stakeholder consent	Reference to the key constituents or stakeholders in PPP and whether there has been buy-in and if they all want the same thing	26	413
5.3.4 Project portfolio	Reference to the types of projects the interviewee worked on	27	1172
6.2 Theme 2 Capacity	**The public sector needs to have the capability to bring projects to the table and successfully award them which involves the capacity to develop and monitor projects (Delhi and Mahalingam, 2012, p.1485).**	**27**	**3615**
6.2.1 Methods to encourage market demand	Reference to whether a market of private providers has been established such as whether the PPP programme is credible to the market and if it attracts strong market interest, does it attract private investment, is there guidance material for the use of the private sector, has anything been done to reduce the cost and length of time of PPP procurement	25	1695
6.2.2 Policy learning	Reference to whether policy learning took place around the PPP policy	26	557
6.2.3 Public sector expertise	Reference to public sector knowledge of PPPs	27	737
6.2.4 Quality of projects	Reference to how PPP projects are identified, are they of a higher or lower quality than traditional procured projects, has a strong private consortium been selected, are risks identified early, is there good project management, step-in clauses etc	26	431
6.2.5 Coordinate deal flow	Reference to the pipeline of projects, clear communication of upcoming projects, project timing, clear explanation and guidance material	16	141
6.2.6 Performance of PPPs	Reference to the performance of PPPs	13	54

[34] Codebook – Phase 5 – Defining and naming themes (Data Reduction) involved conceptually mapping and collapsing categories into a broader thematic framework.

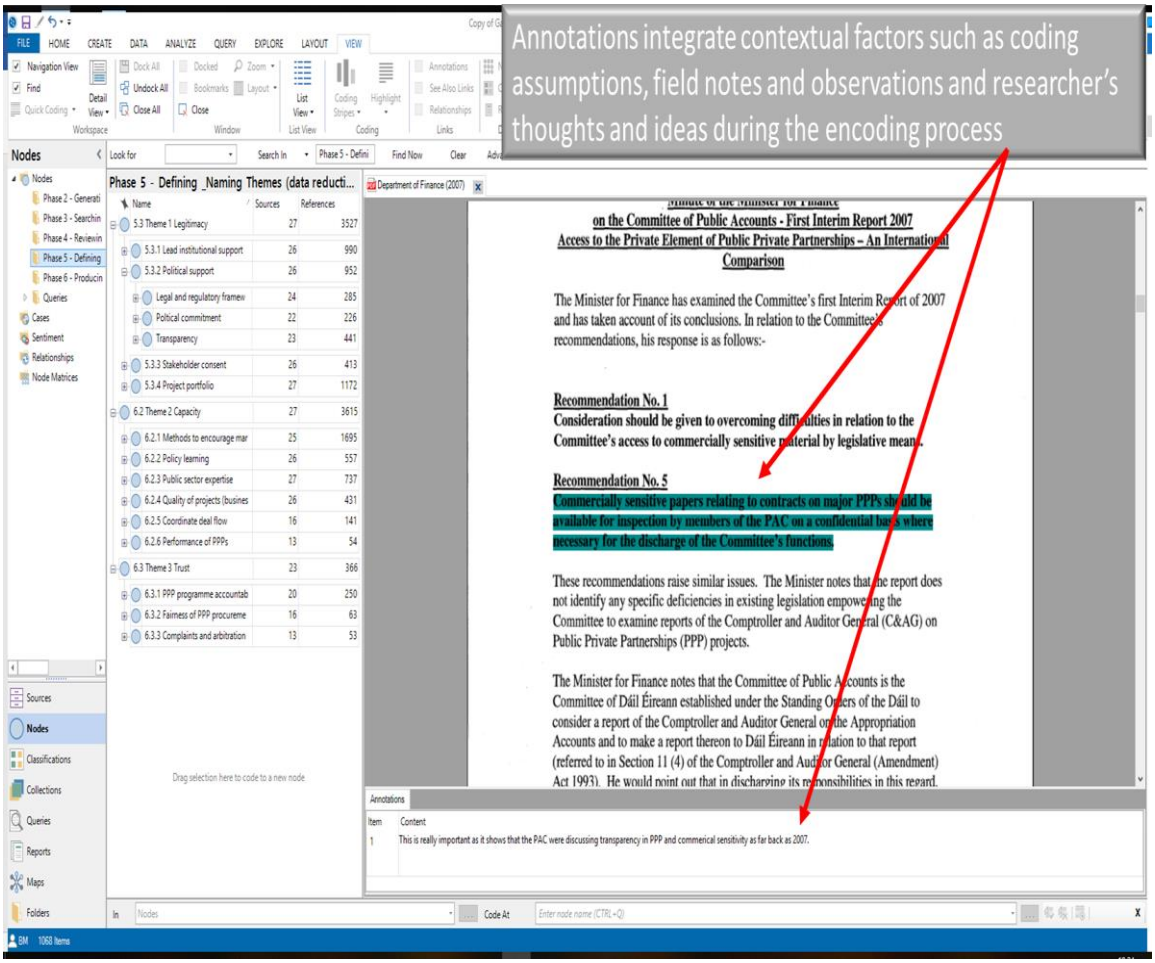
6.3 Theme 3 Trust	**Trust is a disposition and attitude relating to the willingness to rely on the actions of other actors, under the condition of contractual and social obligations with a prospective for collaboration (Smyth and Pryke, 2008)**	**23**	**366**
6.3.1 PPP programme accountability	Reference to whether performance assessment and measurement of PPPs is set out in contracts and is it monitored	20	250
6.3.2 Fairness of PPP procurement	Reference to the integrity of the project, is the selection and award criteria neutral and fair to all bidders and is there an avenue for complaint to an independent tribunal	16	63
6.3.3 Complaints and arbitration	Reference to whether there is a complaints and arbitration procedure for both sides and does it work	13	53

Appendix J [35]: Example of the role of an Analytical Memo



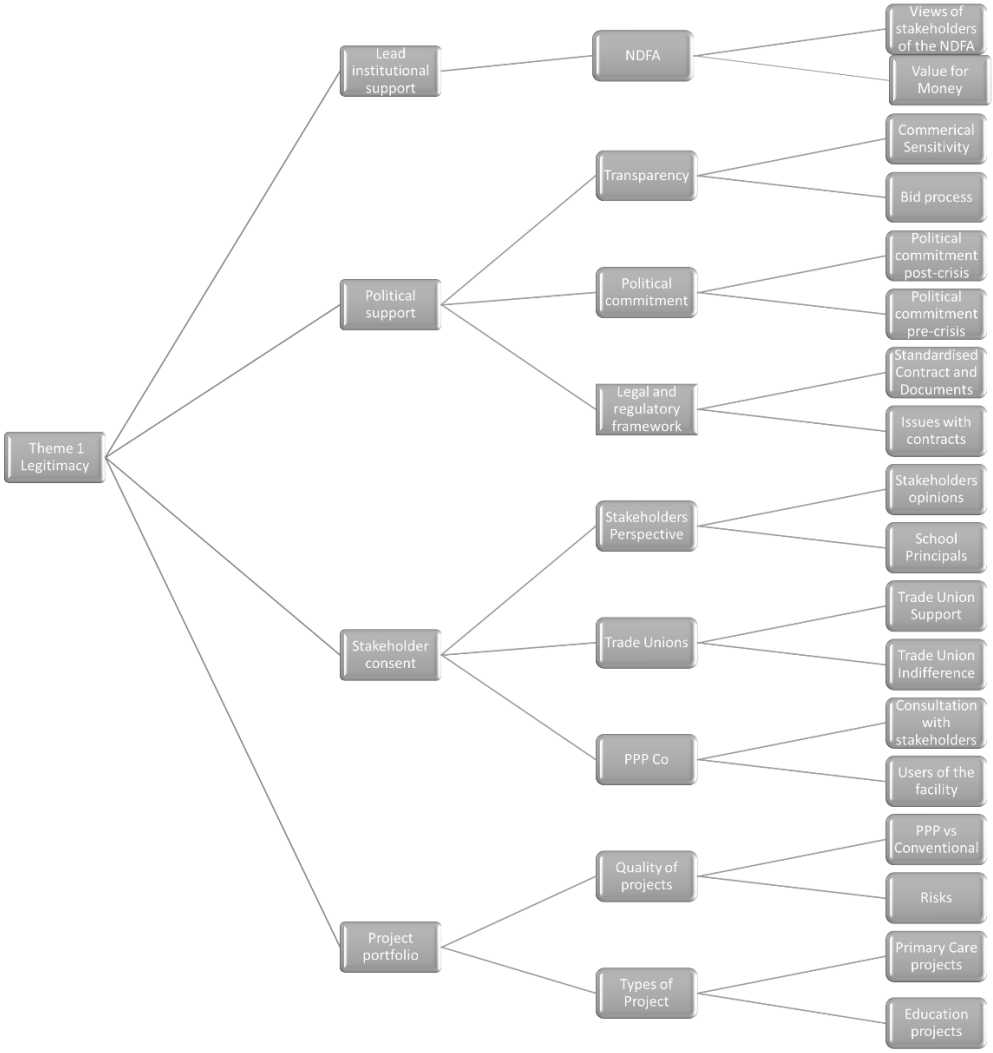
[35] Codebook – analytical memos were used to conduct a systematic review of the thematic framework developed in phase 5 to analyse, report and ask questions of data. Memos were used to reduce the data from series of nodes to a series of documents explaining outcomes of analysis of nodes. Later, memos themselves were reduced through editing out overlapping and less important content to cohere findings into the cohesive data analysis chapter.

Appendix K [36]: Example of the role of Integrated Annotations



[36] Codebook – example of annotation which integrates contextual factors such as coding assumptions, field notes and observations and the researcher's thoughts and ideas during the encoding process.

Appendix L [37]: Example of flow from codes to categories to themes



[37] Codebook – example of process of conceptually mapping codes to categories to themes for Theme 1 – Legitimacy.

Appendix M: PPP project portfolio

Transport	**Education**	**Office of Public Works OPW)**	**Justice**	**Health**	**Social Housing**
N4 Kilcock/Kinnegad (contract signed 2003)	Pilot Schools Bundle (contract signed 2001)	Convention Centre (contract signed 2007)	Criminal Courts of Justice Building (contract signed 2007)	Primary Care (financial close May 2016)	Social Housing Bundle 1 (contract notice May 2017)
M1 Dundalk Western Bypass (contract signed 2004)	National Maritime College (contract signed 2003)		Courts Bundle (contract awarded December 2015)		Social Housing Bundle 2 (planning stage in Q3 2017)
N8 Rathcormac-Fermoy (contract signed 2004)	Cork School of Music (contract signed 2005)				
N25 Waterford City Bypass (contract signed 2006)	Schools Bundle 1 (contract signed 2009)				
Limerick Tunnel (contract signed 2006)	Schools Bundle 2 (contract signed 2010)				
M3 Clonee/Kells (contract signed 2007)	Schools Bundle 3 (contract signed 2012)				
M7 Portlaoise/Cullahill (contract signed 2007)	Schools Bundle 4 (contract awarded 2014)				
N6 Galway to East Ballinsaloe (contract signed 2007)	Schools Bundle 5 (financial close July 2016)				
M50 Upgrade (contract signed 2007)	Grangegorman (construction to begin late 2017)				
N11 Arklow/Rathnew & N7 Newlands Cross (financial close 2013)					
N17/18 Gort to Tuam (financial close April 2014)					
M6 & M9 Motorway Service Stations (Preferred tenderer awarded May 2015)					
M11 Gorey to Enniscorty (financial close October					

Transport	Education	Office of Public Works OPW)	Justice	Health	Social Housing
2015)					
N25 New Ross Bypass (financial close January 2016)					

Source: www.ndfa.ie/project_sectors and Comptroller and Auditor General, Annual Report 2008 and 2011.

Appendix N: PPP projects cancelled during the financial crisis

- Third level education bundle
- Thornton Hall Prison
- National Concert Hall
- New Theatre House
- Metro project in Dublin
- OPW decentralised offices
- National Plan for Radiation Oncology

Appendix O: Summary of transparency findings

Transparency of the decision to go the PPP route	*Transparency of the bidding process*	*Transparency issues surrounding publication of PPP contract information*	*Transparency of PPP reviews and benchmarking*
	Presence of transparency in the bidding process and feedback to unsuccessful bidders		**Presence of transparency** in the publication of the 2004 Review of Pilot Schools Project by C&AG and the 2012 Post-project Review of the Criminal Courts of Justice Complex
	Reason for this: • Regulated by EU legislation • Normal practice in the public sector • Fear of litigation as Ireland is a very litigious country		Reason for this: • Pilot Schools Project was a "path-finder" project and learning took place from this review • Eagerness by interviewees to display VFM
	Mixed transparency in feedback meetings		
	Reasons for this: • NDFA wishing to be fair and its fear of litigation		
Lack of transparency surrounding: • Which projects are put forward for PPP and the basis for evaluation • VFM testing carried out on chosen projects • PSB		**Lack of transparency**	**Lack of transparency in publishing reviews in Schools projects and Primary Care projects**
Reason: • Commercial sensitivity		Reasons: • Commercial sensitivity issues • Fears over interfering with the normal workings of the market • Fears that it might cost the State	Reasons: • Commercial sensitivity issues • Fear that costings will not be in favour of PPP

Transparency of the decision to go the PPP route	*Transparency of the bidding process*	*Transparency issues surrounding publication of PPP contract information*	*Transparency of PPP reviews and benchmarking*
		• This is normal practice on traditionally procured projects	
Resulting in: • Speculation on how decisions are made • Failure to demonstrate VFM to the taxpayer • Culture of secrecy in the public sector • Suspicion over the calculation of the PSB		Recommendations: • Releasing information on stage 1 and 2 projects for review • Use of condition surveys and customer satisfaction surveys • Onus of proof on tenderer to justify commercial-in-confidence • Greater powers of parliamentary committees and C&AG to report commercial in confidence material when it is in the public interest	

Appendix P: Order of analysis of 6.2.2.1 Learning from UK PFIs

6.2.2.1 Learning from UK PFIs	**Number of text blocks**
Learning from Education projects	75
Learning from Health projects	59
Learning from Financing	10
Learning from Road projects	8
Learning from Courts projects	3
Learning from PFI in general	103
Total	**258**

Appendix Q: Order of analysis of 6.2.2.3 Public sector learning

6.2.2.3 Public sector learning	**Number of text blocks**
OPW learning	21
HSE learning	18
NDFA learning	7
DPER learning	4
PPP steering committee	3
Total	**53**

Appendix R: Conference Contributions

Sheppard, G. and Beck, M. (2017) 'Researching the Sustainability of Public Private Partnership in Ireland: A Methodology', *Global Business Research Symposium 'The Quest for Stability'*. University College Cork. 26 – 28 July 2017.

Sheppard, G. and Beck, M. (2017) 'The Sustainability of Public Private Partnerships in Ireland: A Methodological Approach', *Irish Accounting and Finance Association Annual Conference*. Athlone Institute of Technology. 18 – 19 May 2017. IAFA: Dublin.

Sheppard, G. and Beck, M. (2016) 'The Sustainability of Public Private Partnerships in Ireland: A theoretical framework' *Fifth Management Control Journal Workshop 'Systems Control and Environmental Complexity. Innovations and Experiences in Service Company'* University of Bologna. 23 – 24 June 2016. University of Bologna.

Sheppard, G. and Beck, M. (2016) 'Policy Transfer and the Sustainability of Public Private Partnerships in Ireland: A conceptual analysis' *Irish Accounting and Finance Association Annual Conference*. Waterford Institute of Technology. 19 - 20 May 2016. IAFA: Dublin.

Sheppard, G. and Beck, M. (2015) 'A political history of private sector involvement in service and infrastructure delivery in the Republic of Ireland: A pattern of late adoption'. *Paper published in the conference proceedings of the Irish Accounting and Finance Association Annual Conference*. Dublin Institute of Technology, 14 - 15 May 2015. IAFA: Dublin.

Appendix S: Publications

See following pages

Article

International Review of Administrative Sciences



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The evolution of public–private partnership in Ireland: a sustainable pathway?

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Abstract

Ireland is a latecomer to public–private partnerships, having only adopted them in 1998. Prior to the credit crisis, Ireland followed the UK model, with public–private partnerships being implemented in transport, education, housing/urban regeneration and water/wastewater. Having stalled during the credit crisis, public–private partnerships have recently been reactivated with the domestic infrastructure stimulus programme. The focus of this article is on Ireland as a younger participant in public–private partnerships and the nexus between adoption patterns and the sustainability characteristics of Irish public–private partnerships. Using document analysis and exploratory interviews, the article examines the reasons for Ireland's interest in public–private partnerships, which cannot be attributed to economic rationales alone. We consider three explanations: voluntary adoption – where the UK model was closely followed as part of a domestic modernisation agenda; coercive adoption – where public–private partnership policy was forced upon public sector organisations; and institutional isomorphism – where institutional creation and change around public–private partnerships were promoted to help public sector organisations gain institutional legitimacy. We find evidence of all three patterns, with coercive adoption becoming more relevant in recent years, which is likely to adversely affect sustainability unless incentives for voluntary adoption are strengthened and institutional capacity building is boosted.

Points for practitioners

There are many reasons why public sector organisations procure via public–private partnerships, and motivations can change over time. In Ireland, public–private partnership adoption changed from being largely voluntary to increasingly coercive. Irrespective of motives, public–private partnership procurement must be underpinned by incentives

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and institutional enabling mechanisms, which should be strengthened to make Ireland's public–private partnership strategy sustainable.

Keywords
commercial sensitivity, isomorphism, New Public Management, policy transfer, public–private partnership, transparency

Introduction

The extensive use of public–private partnerships (PPPs) in Europe has been identified as contributing to fiscal instability (Budina et al., 2007; Corbacho et al., 2008). Typically, it is assumed that government decisions to introduce PPPs have been based on a need to develop infrastructure in the absence of adequate fiscal resources. Using the example of Ireland, this article suggests that the decision to implement PPPs can follow other than economic or pragmatic rationales.

Ireland can be considered a late adopter of PPPs, and this relates to its moderate uptake of New Public Management (NPM) more generally, with it being classified as a middle-intensity adopter. Although the link between PPPs/private finance initiatives (PFIs) and NPM is not absolute, with some research identifying them as 'defining characteristics of third way governments' (Hodge, 2004: 37), PPP procurement mechanisms lend themselves to NPM concepts, such as 're-engineering' and 'modernisation' (Massey, 2010), in that they draw on private sector practices in public service delivery (Broadbent and Lauchlin, 2004, 2005). By mid-2009, Ireland had only six PPP projects in operation (Reeves, 2013b), representing less than 0.5% of all EU PPP contracts signed from 1990 to 2009. Although a late PPP adopter, Ireland is a 'rapid follower' of the UK model and increasingly a leading practitioner in transport, education, housing/urban regeneration and water/wastewater (Northoff, 2008). This is striking since, as a wealthy late adopter, Ireland had alternative options. Rather than implementing PPPs via the application of the UK model, it could have modified PPP policy to maximise responsiveness to local needs and preferences. This article discusses Ireland's decision to follow the UK model and the implications in terms of policy transfer, institutional developments and sustainability.

Specifically we: define PPPs; examine the background to the approach adopted in Ireland; outline the theoretical framework and discuss how policy transfer theory and institutional theory are used to frame this research; discuss our methodology; apply the theoretical framework to our document analysis and exploratory interviews; discuss findings; and set out the conclusions.

Defining PPPs

PPPs can be described as 'competitive business ventures' between the public and private sectors (Teicher et al., 2006) and as providing 'PFIs' for infrastructure

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projects (Leinhard, 2006). There is no single definition of PPPs. The UK views PPPs as a procurement approach that brings public and private sectors together in long-term partnerships for mutual benefit (Akintoye et al., 2003). The Irish government defines PPPs as a public services/infrastructure procurement method that emphasises value for money and delivering quality public services.[1] Two general PPP arrangements can be identified. One emphasises the use of private finance; the other is service delivery by the public sector (Abdel Aziz, 2007). Both types are used in Ireland. More recent definitions describe PPPs as 'a set of governance tools as well as a set of language games', with both having 'long historical pedigrees' (Hodge and Greve, 2009: 33), which encompass at least five families of governance arrangements, including long-term infrastructure contract-type PPPs (Hodge and Greve, 2010). Although this strand of PPPs covers several arrangements, it typically specifies outputs based on long-term contracts (Hodge and Greve, 2010). Our analysis focuses on this type of PPPs, which, following the UK PFI model, are largely privately funded (Hodge and Greve, 2010).

Background

There is a history of private sector involvement in service and infrastructure delivery in Ireland. Religious institutions have run schools and hospitals (Connolly and Wall, 2009), and in the 1980s and 1990s, toll bridges in Dublin were built with private sector involvement and refuse collection was privatised (Reeves, 2003).

PPPs were formally introduced following the *Report to the Inter-Departmental Group in Relation to Public Private Partnerships* (Farrell Grant Sparks and Goodbody Economic Consultants, 1998). There was little justification for why the Irish government should adopt these policies (Hearne, 2009). The motivation appears to have been to fill the so-called infrastructure gap that arose from the curtailment of capital spending in the 1980s and early 1990s (NESC, 1999). Subsequently, investment relied heavily on European Union (EU) fiscal transfers (Reeves, 2003). Between 1993 and 2000, European transfers became less important as economic growth made Ireland the fastest-growing Organisation for Economic Co-operation and Development (OECD) economy by 2000 (Reeves, 2003).

The Maastricht Treaty convergence criteria meant that Irish budget deficits could not exceed 3%, nor could the gross government debt to gross domestic product (GDP) ratio exceed 60%. Ireland's budget deficit never went above 3% during the 1990s and the ratio of gross government debt fell below 60% in 1998 until 2008. There was no pressing need to finance infrastructure through PPPs, so why did a fiscally healthy Ireland engage in PPPs?

The National Economic and Social Council stated that PPPs brought efficiency gains to the public sector (NESC, 1999). PPPs were not the only vehicle through which such benefits could be acquired. Hodge and Greve (2007) correctly suggest that PPPs enjoyed popularity among governments eager to please markets and unwilling to raise tax rates. Additional explanations for the adoption of PPPs arise from the literature on policy transfer and institutional isomorphism.

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Theoretical framework: policy transfer theory and institutional theory

The study of policy transfer draws on policy diffusion studies, which is a subset of the comparative politics literature (Dolowitz and Marsh, 1996; Evans, 2009). Policy transfer can be defined as 'a process in which knowledge about policies, administrative arrangements, institutions etc in one time and/or place is used . . . in another time and/or place' (Dolowitz and Marsh, 1996: 344). Policy transfer causes organisations to mimic others (Dolowitz and Marsh, 1996). It can increase the effectiveness of government operations (Marsh and Sharman, 2009) and help legitimise organisations (Connolly et al., 2009). Early transfer studies relate to voluntary transfer, which can occur due to dissatisfaction with the status quo. More recent studies explore direct coercive transfer, which occurs when supranational institutions, such as the International Monetary Fund (IMF), force the adoption of a policy, together with indirect coercive transfer, which arises when interdependence-related externalities force governments to collaborate (Dolowitz and Marsh, 1996).

Some studies of change involving the diffusion of institutional elements utilise policy transfer and institutional isomorphism as cognate terms (Marsh and Sharman, 2009). There is a rationale for combining policy transfer and institutional theories (Radaelli, 2000), and we take this approach. Governments operate in an institutional environment that influences their actions (Matos-Castaño et al., 2014) and institutional theory can explain why governmental organisations often mimic each other (Connolly et al., 2009). Institutional theories assume that to gain organisational legitimacy and secure access to resources, organisations must meet expectations by external and internal stakeholders (Brignall and Modell, 2000). Organisational structure, policies and procedures relate to expectations and 'myths' about what is socially and economically acceptable, which are rationalised and gain legitimacy (Brignall and Modell, 2000; DiMaggio and Powell, 1983).

DiMaggio and Powell (1983) describe three types of institutional isomorphism: coercive, mimetic and normative. Connolly et al. (2009) suggest that PPPs were introduced in the UK as a project would otherwise not be implemented (Newberry, 2004). The manner in which PPPs were introduced into Ireland is said to have involved 'mimicry' (Connolly et al., 2009). Research on PPP policy in British Columbia (Canada), Victoria (Australia) and South Africa shows that the original model was modified beyond the isomorphic 'one size fits all' approach by diffusion carriers such as relational networks, local advocates and consultants (Jooste et al., 2011).

Research into the institutional impacts on the implementation of PPPs explores successful institutional environments as contexts where governments understand the complexity arising within PPPs (Willems and Van Dooren, 2011). PPPs require a variety of new types of institutional capacity (Jooste et al., 2009), and institutional shortcomings can lead to performance problems (Matos-Castaño et al., 2014). The first generation of PPPs in the Netherlands in the early 1990s suffered

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from financial and structural problems. The second generation of PPPs came about after the government assessed international experiences of PPPs (Matos-Castaño et al., 2014).

This study draws on elements of the Dolowitz and Marsh (2000) framework, which asks how the process of policy transfer relates to policy success or failure. Hodge and Greve (2011) also investigate how the success of PPPs can be assessed and note that broad multifaceted definitions of PPP success could relate to any of the dimensions of PPPs, including project, organisation, policy symbol and context and culture (see also Hodge et al., 2011: 4). This implies that the assessment of PPPs requires theoretical frameworks that take into account the nature of PPPs as a developmental and emerging phenomenon rather than looking at economic outcomes only (Hodge and Greve, 2011).

A number of frameworks allow for a process-based assessment of PPPs. Verhoest et al. (2013: xiv) suggest that the emergence of 'PPP policies, regulations and supporting institutions, as well as . . . differences', can be understood by reference to 'specific macro-institutional variables like culture, legal tradition, polity, economic-financial evolutions and actor constellations', while 'we might study policy diffusions and transfer processes to understand the spread of PPP propagating policies, regulations and supporting institutions'. Verhoest et al. (2013) suggest a framework of eight variables for the dimension of political commitment to PPPs, including aspects of the PPP policy framework, previous PPP experience, political stability, effects of the financial crisis, policy changes due to crisis, legal changes, scope of PPP law and elements of the legal framework.

While this framework is specifically aimed at assessing, as a predictor of success, political commitment to PPPs, we focus on the sustainability of the Irish PPP programme in its current form. This delimitation is based partly on acknowledged difficulties in defining and assessing PPP success (Hodge and Greve, 2011), and partly on the fact that the Irish PPP programme is ongoing with increased post-crisis government support, which gives paramount importance to questions of institutional sustainability and socio-political legitimacy. To examine the sustainability of the Irish PPP programme, we borrow from Jooste, Levitt and Scott's (2009) framework, which groups 19 PPP success factors under three main headings: building capacity, obtaining legitimacy and balancing interests (Jooste et al., 2009). We apply nine measures from this approach to our analysis.[2] While our analysis does not focus on explicit hypothesis testing, we approach our analysis through a novel combination of the Jooste, Levitt and Scott (2009) framework with the predictions by Dolowitz and Marsh (2000). Based on these sources, we expect that the most sustainable PPP environment (see Table 1) is associated with: (2) voluntary policy transfer with strong institutional capacity building, where institutional environments and institutional capacity are changed and developed to meet the challenges arising from PPP procurement. This is followed by: (4) coercive policy transfer and strong institutional capacity building; (1) voluntary policy transfer and weak institutional capacity building; and (3) coercive policy transfer and

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Table 1. Factors affecting the sustainability of PPP policy transfer.

Degree of institutional capacity building		Weak	Strong
	Voluntary	(1) Voluntary PT & weak institutional capacity building	(2) Voluntary PT & strong institutional capacity building
	Coercive	(3) Coercive PT & weak institutional capacity building	(4) Coercive PT & strong institutional capacity building
		Degree of policy transfer	

weak institutional capacity building. The results section examines these aspects in the Irish context.

Methodology

The research takes a predominantly deductive approach in which the predictions of our combined framework are contrasted with the concrete experiences of recent Irish PPP developments. We draw on exploratory interviews with a senior member of the parliamentary public accounts committee, a senior trade union official and a senior economist working on PPP project financing in an investment bank. A document analysis explores the rationales relating to PPP policymaking. We examine how patterns of PPP adoption, together with aspects of institutional capacity building, are affecting the sustainability of this programme. Our aim is to provide suggestions for improving the sustainability of this PPP programme in order to avoid the rapid policy shifts observed in other venues such as the UK.

Results

Evidence of policy transfer

Ireland's role as a late adopter of UK-style PPPs is exemplified by policy guidelines (Sheppard, 2016). Irish guidelines produced to assist those engaged on PPP projects within the local government sector (Department of the Environment, Heritage and Local Government, 2003) closely mirror the UK Green Book (HM Treasury, 2003). This concerns: PPP project implementation; training for the public and private sectors; the availability of expertise through a procurement unit; the allocation of risk between the parties; and the composition of the public sector comparator.

Our exploratory interviews suggest that policy transfer was both voluntary and coercive to some degree. In an interview with the authors, a senior member of the public accounts committee noted that the choice to closely follow elements of the UK model was based on pragmatic considerations and, as such, voluntary. This informant suggested, however, that assumptions borrowed from the UK were

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inaccurate and that the approach also raised issues of transparency. Noting this lack of transparency related to industry expectations of commercial confidentiality, the informant said that this could be addressed by publishing outcome-related cost figures only. This suggests that while the decision to adopt UK-style PPPs was largely voluntary, industry expectations created a coercive element with regard to the evaluation of the scheme.

Our senior trade union informant maintained that for local authorities, the adoption of PPPs was largely coercive. He cited examples of water projects where direct public procurement would have been cheaper and deduced that the Department of the Environment was biased in favour of PPPs. He felt that commercial confidentiality was unjustifiably forced onto the public by industry since 'information is only commercially sensitive at the bidding stage, while post-contract, the use of public money should mandate public disclosure'.

Meanwhile, our senior economist and bank representative involved in PPP project finance highlighted that the initial adoption of PPPs had been largely voluntary and was difficult to explain on pragmatic or economic grounds, indicating potentially symbolic or legitimatory drivers. Current PPP adoption reflects the public sector's restricted access to borrowing. This confirms the view that PPP adoption shifted from voluntary to coercive policy transfer.

Evidence of institutional capacity building

Applying Jooste, Levitt and Scott's (2009) framework to document analysis and initial exploratory interviews, this section focuses on institutional structures created by Ireland to support PPP procurement. The analysis focuses on nine measures: a supportive legal framework; political commitment; buy-in from key constituents; good public sector knowledge of PPPs; a PPP unit; measures to coordinate deal flow; programme transparency; and ensuring the quality of projects while implementing independent oversight.

Developing and applying a supportive legal framework. In 2001 and 2002, Ireland passed Acts to facilitate state participation in PPPs: the Transport (Railway Infrastructure) Act 2001; the State Authorities (Public Private Partnership Arrangements) Act 2002; and the National Development Finance Agency Act 2002. The last established the National Development Finance Agency (NDFA), which funds infrastructure through long-term debt and equity. The role of the NDFA was expanded through amending legislation that tasked it with establishing a Centre of Expertise for procuring PPP projects on behalf of state authorities. The NDFA was further authorised to provide contract management services for PPP projects. Accordingly, a consistent legal framework appears to be in place to support the implementation of PPPs.

Providing political commitment. PPPs were endorsed by the 1997–2002 government and PPP pilot projects were announced in 1999 (Connolly and Wall, 2009).

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The National Development Plan 2000–2006 (NDP) confirmed the government's commitment to PPPs by highlighting their potential in transport and environmental projects. This was abandoned with the economic crisis, which put 24 projects on hold (Reeves, 2013b).

Following recommendations by the Irish Business and Employers Confederation (IBEC), the minister for public expenditure and reform announced a €2.25 billion domestic infrastructure stimulus programme in 2012.[3] Details were announced in 2013 regarding Phase 1, to be delivered through a PPP, valued at €1.4 billion. The government also agreed €250 million in new PPP projects in the areas of schools, energy efficiency and roads.

One motivation for this PPP programme was to create jobs and stimulate the economy. Moreover, the NDFA explained that it was using the PPP programme to keep borrowing 'off balance sheet' (NDFA, 2013). This indicates that the relevance of PPPs to Irish politics had changed significantly, with PPPs no longer being a voluntary option and becoming a necessity in terms of maintaining adequate public investment. It also implies that political commitment has increased considerably from a stage where PPPs were considered a fashionable approach to procurement, which created an image of modernisation in line with UK policy, to one where PPPs became the main (if not sole) option in dealing with capital spending shortfalls.

This view was confirmed by the senior economist, who suggested that the PPP scene today is characterised by strong political commitment at all government levels as they are now seen as a tool for overcoming funding shortfalls.

Gaining buy-in from key constituents. Buy-in from key constituents can be illustrated by a number of key submissions and reports supporting PPPs by organisations such as IBEC, the construction industry, advisory groups and, initially, trade unions and community groups. In January 1998, IBEC and the Construction Industry Federation (CIF) presented a report to government that argued for PPPs as a means of addressing the infrastructure deficit. The social partnership agreement, *Programme for Prosperity and Fairness* (Department of the Taoiseach, 2000), stated that PPPs would contribute significantly to the implementation of the NDP, drawing on the experience gained from then current PPP pilot projects. Mechanisms would be agreed by the relevant social partners to deliver efficient, transparent and fair contracts, tendering and contractual procedures for PPP procurement.

In November 2001, a *Framework for Public Private Partnerships* (Public Private Partnership Advisory Group, 2001) was launched, involving an advisory group comprising representatives of IBEC, trade unions, the CIF and the main PPP agencies. The report recognised the critical role of social partnerships and stakeholder consultation, and trade unions initially favoured PPPs. The unions interpreted the guidelines on PPP consultation as requiring detailed consultations on Procurement Assessment Reports (PARs), which consider different procurement alternatives in terms of economic, engineering and organisational aspects.[4] In the case of a replacement wastewater treatment plant, five roundtable meetings

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took place where stakeholders raised questions and made changes to the PAR prior to its 2007 submission to the Department of the Environment (Reeves, 2013a).

In the case of another PAR of mid-2006, consultation was less cooperative and failed to facilitate agreement. In the case of a mixed-tenure housing and urban regeneration PPP proposed as a design, build and finance project, a plan unveiled by Dublin City Council in 2004 had no input from residents or community organisations. This plan was rejected and a period of negotiation was agreed. The council initially resisted having community representatives on the bid assessment panel but relented after a year. The economic crash resulted in this PPP project collapsing in 2008 (Reeves, 2013a).

There appears to have been buy-in to PPPs by IBEC, the CIF and, initially, the unions. The trade union experience with the 2006 PAR and the experience in the development of mixed-tenure housing indicate that, although Irish PPPs may have initially been supported by efforts to gain buy-in from constituents, this has been less so in recent years. This is indicative of the increasingly coercive nature of Irish PPPs.

Improving public sector knowledge of PPPs. In 1998, an interdepartmental group (IDG) explored the introduction of PPPs with a focus on roads. Farrell Grant Sparks Consultants reported to the IDG in July 1998. This report discussed so-called hiccups in implementing PPPs, as experienced by the UK. Discussions with the UK Treasury Task Force convinced the IDG to create a central PPP unit in 1999, as well as PPP units in the Departments of the Environment, Education and Public Enterprise (Connolly and Wall, 2009).

There is evidence of efforts to provide PPP-specific training and guidance to public sector staff. Also, it appears that the IDG endeavoured to learn from UK experiences, but it is unclear whether this was effectively communicated to key public sector managers. This view was echoed by the senior economist, who noted that there had been significant opportunities for learning at specialised conferences with expert participation, which may have helped the ongoing 'learning by doing' processes.

Establishing a PPP unit. Founded in 2002, the NDFA can be considered to partially fulfil the functions of what can be described as a 'dedicated PPP unit'. In 2012, the UK HM Treasury called for a stronger government role, where equity investment would be managed by 'a commercially-focused central unit located in Treasury . . . managed by individuals with the appropriate professional skills to oversee the investment and make commercial decisions' (HM Treasury, 2012). IBEC's call for the establishment of a 'National Infrastructure Authority' with strategic policy responsibility for determining whether PPPs are an adequate delivery mechanism indicates similar dissatisfaction with the existing arrangements in Ireland. This is mirrored by trade union calls for the cross-departmental coordination of PPP activity (Irish Congress of Trade Unions, 2011), which suggests that

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while Ireland has an organisation – the NDFA – it does not yet fulfil all the functions that it ideally should pursue.

Coordinating deal flow. At a PPP conference held in Dublin on 21 March 2013, the minister of state for public service reform and the Office of Public Works announced changes to PPP projects aimed at instilling confidence and maximising market participation. These were: reducing to 15 months the time frame for preparing PPP projects to the market through to contract award, and reimbursing bid costs to unsuccessful bidders. The minister also stated that the PPP process would be streamlined, with less documentation and meetings, and specimen designs drawn up prior to the bidding process. This was confirmed by the senior economist, who highlighted current measures to reduce the historically lengthy negotiation process, which could require periods of two years and more for contract completion.

There are similarities between the announcements in Ireland and the UK Private Finance 2 (PF2) reform measures introduced by HM Treasury in December 2012. The UK reforms reduced the tendering phase of PF2, allowed the government to subsidise bid costs and reduced the amount of design work to be carried out for bids (HM Treasury, 2012). Similarly, the UK expected the pipeline of PFI deals to stimulate national and local economies (National Audit Office, 2010), while Ireland's domestic infrastructure stimulus package of July 2012 envisioned €1.4 billion to be delivered through PPPs.[5]

Both Ireland and the UK have taken measures to increase the PPP deal flow after the 2008 crisis. This highlights the vulnerability of the PPP industry to economic shocks and indicates that neither Ireland nor the UK had a structured national infrastructure policy. The senior economist noted that it was initially difficult to attract international companies and to create sufficient market interest for scalability reasons, but that the government was addressing this issue by creating a pipeline of PPP projects. The similarities of the policy responses indicate the lasting legacy of policy transfer between the two countries.

Improving programme transparency. Policies aimed at improving the transparency of the PPP process in Ireland have been rife with contradictions. A 2012 Comptroller and Auditor General (C&AG) report recommended that 'evaluations of the value for money expected to be achieved through procurement of projects by means of PPP should be published', and stated that 'a PPP cannot proceed unless it is found likely to deliver better value than traditional procurement', yet 'few value for money reviews of PPP projects have been published'.[6] The report noted that the NDFA had carried out value-for-money testing on the third schools bundle project, but the results of the final deal had not been disclosed as they could compromise negotiations.

The chief executive of the National Roads Authority (NRA) reported to the Committee of Public Accounts in 2013 that he could not 'reveal the individual consortia's precise commercially sensitive information' on the M3 PPP motorway project. When discussing PPPs carried out by the Department of Education,

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regarding requests for disclosure, the secretary general of the department stated that 'we will have to make the call in terms of commercial sensitivity . . . the public sector benchmark decision certainly is commercially sensitive for a number of years'.

There have been few value-for-money reviews of PPPs in Ireland, yet other jurisdictions make such information available. The government of Victoria (Australia) provides disclosure on all PPP contracts (English and Walker, 2004). It is not surprising that IBEC has called for greater transparency around the planning process (IBEC, 2013).

There is a strong indication that although value-for-money assessments are given central importance by the Irish government, full evaluation is not taking place. The senior member of the public accounts committee stated that 'the Department of Public Expenditure and Reform should *mandate* how to measure value for money'. Similarly, the senior trade union informant said that 'there is no empirical evidence in the public domain that a PPP is better value for money'. As evaluations of these assessments are not in the public domain because of commercial sensitivity issues, neither Ireland nor the UK fully meets this requirement for sustainability.

Ensuring the quality of projects. The decision to implement PPPs in Ireland followed the publication of the 1998 Farrell Grant Sparks report, which listed the benefits as: a focus on service outcomes rather than the assets; optimum risk allocation; and value for money. These expectations were not fully confirmed by later reports. A 2004 C&AG value-for-money report on the Grouped Schools Pilot Partnership Project initially commented positively on this first PPP pilot project. It noted that 'the cost comparison exercise . . . concluded that procuring and running the schools through the proposed PPP arrangement would result in a saving of around 6% compared to procuring and running the schools conventionally'; however, in light of the recognition that 'the analysis contained errors in relation to the timing and discounting of payments and overestimated the residual value of the school buildings at the end of 25 years',[7] subsequent analysis suggested that PPP was between 13% and 19% more expensive than conventional procurement, with relatively little risk transfer to the private sector. The C&AG concluded that it was too early for a comprehensive comparison of the economy, efficiency and effectiveness of the school PPPs.

Reeves (2013a) writes that the Department of the Environment preferred PPPs in the water services sector. Although the department initially estimated the whole-life costs of a replacement wastewater treatment plant to be 2.3% lower under traditional procurement, a reworked estimate indentified a differential of less than 1% in favour of traditional procurement. Nonetheless, the department decided to proceed with PPP procurement (Reeves, 2013a). Despite problems, there is evidence of some success, as exemplified by a post-project review of the Criminal Courts of Justice PPP, where a 2008 C&AG report verified 6% lower costs for the PPP (IBEC, 2011).

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On risk transfer and the quality of PPP projects in Ireland, the senior economist noted that the small population of the country meant that road projects, in particular, continued to suffer from poor estimates of demand risk, with the government frequently accepting 'all of the downside risks' without 'benefiting from potential upside risks'. The literature supports this when discussing the implementation of a dedicated formal risk framework not guaranteeing effective patterns of risk assessment and management (Asenova et al., 2007). There is mixed evidence of value for money and risk transfer being achieved, with some projects performing within or above expectations and others being problematic.

Implementing independent oversight of project development and execution. Regulatory oversight of Irish PPPs is problematic. Responsibility for water services and water/wastewater PPPs was transferred to the state-owned utility Irish Water in 2014. The C&AG does not audit the accounts of commercial state companies and subsidiaries. The Commission for Energy Regulation has responsibility for regulating water and reviewing Irish Water's underlying costs of provision of water and wastewater services.[8] Whether this will involve the publication of information on PPPs is unclear.

As statutory financial adviser, the NDFA has responsibility for the procurement of PPPs in sectors other than transport, local authorities and the direct procurement of certain education projects.[9] It performs its functions through the National Treasury Management Agency, and while its fees and expenses are audited by the C&AG, the auditor does not oversee procurement decisions nor publish the performance-monitoring results of the NDFA.

This suggests a high degree of fragmentation in the regulatory oversight of Irish PPPs. While this would be unproblematic if each agency carried out its assessments to similar standards, current practice is likely to make performance comparisons of PPPs across different areas of activity difficult.

Conclusions

The core objective of this analysis has been to identify the impact of adoption patterns on the sustainability of PPPs in post-crisis Ireland. Combining policy transfer and institutional theory, four possible adoption patterns were identified:

- voluntary policy transfer and strong institutional capacity building;
- coercive policy transfer and strong institutional capacity building;
- voluntary policy transfer and weak institutional capacity building; and
- coercive policy transfer and weak institutional capacity building.

Our preliminary empirical analysis, which we expect to become more detailed as this research project progresses, suggests that policy transfer was initially largely voluntary, although specific elements of implementation, such as limits on transparency on account of commercial sensitivity, were perceived as coercive by

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our informants. This coercive element was largely attributed to industry expectations that had developed within the UK PFI market. For the pre-crisis period, government announcements seemed to indicate that PPPs were seen as a means of catching up with 'modern procurement methods', as practised in other English-speaking countries such as the UK, where ministers were keen to introduce what they saw as 'innovative, entrepreneurial business values' into public services (Weaver, 2003). Unsurprisingly, Ireland's 2003 PPP policy framework closely mirrored the earlier UK Green Book. Government documents written and exploratory interviews conducted post-crisis suggest that PPPs have ceased to be a voluntary option, being perceived instead as an economic necessity. This seems to have given rise to the accelerated development of a supportive legal framework and enabling measures.

Regarding the nine factors examined – a supportive legal framework, political commitment, buy-in from key constituents, good public sector knowledge of PPPs, a PPP unit, measures to coordinate deal flow, programme transparency and ensuring the quality of projects while implementing independent oversight – we note that not all of these factors have been accomplished. We find evidence of the development of a supportive and comprehensive legal framework that is widely utilised, as well as strong political commitment by government. This also applies to improvements in public sector PPP skills, which benefited from the establishment of the Central PPP Policy Unit in 1999 and the creation of the NDFA.

More mixed results can be observed in the efforts to gain buy-in from key constituents. Buy-in seems to have been fairly broad in the early stages, with support being articulated by the employers' association, industry bodies and trade unions. By the mid- to late 2000s, this had partially eroded, with trade unions and community groups voicing concerns over inadequate consultation.

Another problem is the coordination of deal flow. Both Ireland and the UK suffered from delays in contract awards and financial closure, haphazard bidding processes (resulting in high costs and losses to bidders), and uneven demand. Efforts were made to address this in Ireland in 2013, with measures aimed at instilling confidence and maximising market participation in PPPs following the UK's PF2 reform package.

The lack of frameworks for ensuring PPP quality appears to be the most significant institutional barrier to the sustainability of Irish PPPs. This concerns objective and systematic value-for-money evaluations of existing and future deals, which are hampered by fragmentation and a lack of detailed cost and return data that allegedly arises from the commercial confidentiality needs of private participants. Uncertainty about risk allocation between partners and the costing of risk transfer seems to adversely affect the accuracy and reliability of value-for-money calculations. The Clonee-Kells (M3) and Limerick tunnel PPPs have suffered shortfalls in traffic volumes, resulting in the NRA making guaranteed payments to the PPP companies.[10] This is a serious issue as government organisations put great emphasis on these assessments.

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Major difficulties in the sustainability of Irish PPPs also arise from the lack of transparency and poor oversight. Government documents and interview informants highlight problems in obtaining financial data on operating costs and profits, which would allow for a thorough assessment of existing and future projects. This could have serious repercussions because learning about the performance of PPP projects is obstructed. This is compounded by a lack of effective independent oversight, which arises from the fragmentation of regulatory control. The institutional framework is not fully developed and there is need for improvement.

PPPs are not the 'only game in town', and from a practitioner point of view, their adoption should be voluntary. Alternatives should be examined for each project and underpinned by rational decision-making. If such decision-making is not employed, and value-for-money testing is not robust, there is a danger of PPPs becoming a long-term threat to public finances. PPPs are complex and rely on networks and partnering, which may be difficult in a small country such as Ireland. This creates unique challenges in terms of managing processes and ensuring accountability (Willems and Van Dooren, 2011). This cannot be addressed through specific legal/regulatory measures alone, but requires a broad institutional response in terms of building institutional capacity (Jooste et al., 2009). For Ireland to create a strong, sustainable framework for PPP implementation requires the creation of credible and transparent accountability frameworks linked to a broader vision about the future of the nation's infrastructure and the desirable characteristics of procurer–provider relationships.

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Notes

1. See: www.ppp.gov.ie
2. The remaining measures to be utilised at a later stage are: increasing public awareness/understanding of PPPs; developing a market of private providers; providing government support for private providers; keeping line agency discretion in check; monitoring the behaviour of private providers; increasing programme accountability; ensuring management support to public sector agencies on projects; ensuring that PPPs promote the public interest; ensuring the fairness of procurement; and improving environmental performance.
3. See: http://www.per.gov.ie/en/speech-by-minister-brendan-howlin-td-government-infrastructure-stimulus/
4. 'Public private partnership – stakeholder consultation for employees and their representatives', January 2005.
5. See: http://www.per.gov.ie/en/building-on-recovery-infrastructure-and-capital-investment-2016-2021-statement-of-the-minister-for-public-expenditure-and-reform-mr-brendan-howlin-t-d-on-29-september-2015/
6. 'C&AG report on the accounts of the public services 2011' (September 2012), ch. 6, paras 6.30 and 6.50.

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7. 'C&AG report on value for money examination 48, the Grouped Schools Pilot Partnership Project', June 2004, p. 11.
8. See: www.CER.ie/water/
9. 'C&AG report on the accounts of the public services 2013' (September 2014), para. 17.29.
10. 'C&AG report on the accounts of the public services 2011' (September 2012), para. 6.20.

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11 Public Private Partnerships in the Republic of Ireland

Gail Sheppard

Introduction

This chapter traces the decisions that led to the introduction of Public Private Partnerships (PPPs) in the Republic of Ireland (ROI). It examines the motivation behind the decision to involve the private sector, and considers if such decision was part of a political ideology, as a result of policy change brought about by the European Union (EU), or due to a lack of public funding. The chapter traces the timeline leading up to the introduction of PPPs by referencing the key reports, acts and political decisions made. The chapter reviews recent decisions made regarding PPPs in the ROI focusing on the review of PPPs in the ROI by the Comptroller and Auditor General (C&AG).

The origins of privatisation and the rationale for PPPs in the Republic of Ireland

Privatisation policies in the Republic of Ireland (ROI) have been driven by pragmatism and have been specific to enterprises rather than having been driven by ideology (Palcic and Reeves, 2004). There is a history of private sector involvement in service and infrastructure delivery in the ROI. Religious institutions have run schools and hospitals (Connolly and Wall, 2009), the East-Link and West-Link toll bridges in Dublin were built in the 1980s and 1990s with private sector involvement, there was some privatisation of local authority refuse collection services during the 1990s (Reeves, 2003), and some state-owned enterprises in Ireland have been privatised since the 1980s.

PPPs were formally introduced into the ROI following the recommendations in the Report to the Inter-Departmental Group in Relation to Public Private Partnerships (Farrell Grant Sparks and Goodbody Economic Consultants, in association with Chesterton Consulting, 1998). There was little in-depth analysis at the time of why the Irish government adopted this significant shift in public service and infrastructure delivery (Hearne, 2009). The main motivation appears to have been filling the so-called infrastructure gap and implementing the conservative policies of the Minister for Finance, Mr Charlie McCreevy TD:

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PPP model being adopted. In the case of a replacement waste water treatment plant along with ancillary facilities, a consultation period allowed stakeholders to review costs, and the subsequent report and recommendation to the DoECLG estimated the whole-life costs to be 2.3 per cent lower under traditional procurement. The DoECLG re-worked the VFM assessment and concluded that the final adjusted cost differential amounted to under 1 per cent in favour of traditional procurement. Nonetheless, they made a final decision to proceed with procurement under the PPP approach (Reeves, 2013a).

An example of problems with risk sharing was identified by the C&AG report (2012) in the case of the Clonee-Kells (M3) and Limerick Tunnel PPPs. The contract provides for traffic-related guaranteed payment mechanisms whereby the National Roads Authority (NRA) is obliged to make payments to the PPP company if traffic falls below a certain level. In both cases the shortfalls in traffic volumes relative to the guaranteed thresholds in 2010 and 2011 were significant. The NRA estimated the guaranteed related amount payable in 2012 at €6.7 million. The C&AG report (2012) states that on the assumption that traffic on both routes will grow at an annual average of 2.5 per cent a year, the State will continue to make guaranteed payments to the Clonee-Kells PPP company until 2025.

The C&AG report (2012, paragraph 6.48) states 'Appropriate sharing of project risks is a requirement if PPP projects are to deliver value for money'. The UK is taking a similar approach, as stated in HM Treasury's 'A New Approach to public private partnerships', produced in 2012. It recommends a reform of the way risk allocation is handled. Under PF2, changes will be made to the risk allocation to improve value for money through the retention and management of certain risks by the public sector that were previously transferred under PFI.

The C&AG report (2012, paragraph 6.50) also states:

> VFM appraisals are carried out for all proposed major public investments and a PPP cannot proceed unless it is found likely to deliver better value than traditional procurement. However, few value for money reviews of PPP projects have been published.

The C&AG report (2012, recommendation 6.3) recommends that 'Evaluations of the value for money expected to be achieved through procurement of projects by means of PPP should be published'.

The Committee of Public Accounts met on several occasions in late 2012 and 2013 to review PPP commitments under chapter 6 of the C&AG report (2012). However, to date the committee has not carried out any in-depth value-for-money analysis of PPPs.

As mentioned, Hodge and Greve (2007) state that PPPs are an attractive policy for governments that are eager to please markets, but they also state that there is a lack of independent evaluators; poor evaluation rigour; poor definition of what they refer to as 'the "counterfactual"' against which PPP is judged; evaluations by auditors general who, in most jurisdictions, cannot question government policy; inaccurate discount rates of time-value-of-money estimates of net benefit; inaccurate estimates

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Value-for-money reports and reviews of PPPs

A value for money report (No. 48) of the Grouped Schools Pilot Partnership Project was carried out by the Office of the Comptroller and Auditor General (C&AG) in June 2004. This was the first of the PPP pilot projects to reach the contract stage. The C&AG (2004, p. 11) report stated:

> The cost comparison exercise – completed in September 2001 – concluded that procuring and running the schools through the proposed PPP arrangement would result in a saving of around 6% compared to procuring and running the schools conventionally. However, the analysis contained errors in relation to the timing and discounting of payments and overestimated the residual value of the school buildings at the end of 25 years.

After correcting the analysis for these factors, the report suggested that the Department of Education and Science should have concluded that adopting the PPP approach for procurement was likely to be in the region of 13 to 19 per cent more expensive than conventional procurement and that the deal involved relatively little transfer of risk to Jarvis, the consortium tasked with this project. The report stated that although risks were 'appropriately retained' by the public sector, the extent of risk transferred to the private sector was 'limited', valued at 6 per cent of the overall estimated cost of procuring the schools by conventional means. The report concluded that it was too early to do a comprehensive comparison of the economy, efficiency and effectiveness of the group of schools built under PPP with a similar group built under the conventional route.

Further analysis of the financial commitments under PPP was carried out by the Comptroller and Auditor General (C&AG) in chapter 6 of the Report on the Accounts of the Public Services 2011 (September 2012). It discusses a review of value for money in water services (Department of Environment, Heritage and Local Government, 2010) and the impact of risk sharing in roads projects. The report states that PPP procurement is employed only where it is clearly established that it provides best value for money overall.

The Department of the Environment, Community and Local Government (DoECLG), the government department responsible for water and waste water (W&WW) PPPs, has stated that when compared with traditionally procured contracts, PPP design, build and operate (DBO) represents average savings in the range of 10 to 20 per cent for project capital costs and 5 to 10 per cent for operational costs, depending on the scale of the treatment plant. The C&AG's report also states that under PPP, the transfer of all construction stage risks, other than archaeology, is made to the contractor which was not the case under the traditional procurement approach. Under the traditional approach, the employer, that is, the local authority, carried virtually all risks associated with the contract.

However, Reeves (2013a) writes that the DoECLG has a stated preference for the PPP model in the water services sector that is at odds with the official guidelines on PPP procurement, which requires that VFM is demonstrated in advance of the

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€250 million in the areas of schools, energy efficiency and road repairs. In the Minister's words:

> Although the public finances are severely constrained, it is important that we build for the future. It is absolutely vital for our long-term well-being and prosperity that children have proper school buildings in which they can learn, that our roads are safe and well-maintained and that local authority housing is as energy efficient as possible. I am delighted to be able to make this funding available. (Department of Public Expenditure and Reform, 2013)

A motivation for this PPP programme, apart from developing infrastructure, was to create jobs and stimulate the economy. This was quite different from the motivations for previous PPP programmes. Tenders for projects were required to participate in job-creating measures. The NDFA explained why it was using a PPP programme:

1 There was a borrowing requirement to be 'off balance sheet' in accordance with EuroStat rules so as not to affect the general government balance.
2 It would enable risks such as design or construction risk and availability or demand risk to be transferred to the private sector.
3 It was important in the context of the deficit reduction programme and the EU-IMF Programme of Financial Support for Ireland.
4 The programme was sized so that the unitary payment obligations were affordable within budgetary arithmetic.
5 It would have a multiplier effect of investment to stimulate jobs and growth.
6 There would be social and community benefit provisions included.
7 It would have features incorporated to assist SMEs (National Development Finance Agency, 2013a).

To instil confidence and maximise market participation, new measures were introduced such as reducing the timeframe from 21 months to 15 months for preparing PPP projects to the market through to contract award, the reimbursement of bid costs to unsuccessful bidders (agreed by the government in 2012 for Phase 1), a fixed amount to be paid in compensation for cancellation, a compliant tender fee to be paid to a maximum of three shortlisted tenders, and performance bonds to be capped at 12.5 per cent (Department of Public Expenditure and Reform, 2013). The Minister of State for Public Service Reform and the Office of Public Works (Hayes, 2013), also stated that the PPP process would be streamlined, with less documentation and meetings and specimen designs drawn up prior to the bidding process.

Similarities can be seen between the announcements in Ireland and the reform measures of PF2 introduced in the UK by HM Treasury in December 2012. Among the reforms were accelerating delivery in order that the tendering phase of PF2 would be no longer than 18 months, the government would have discretion to make a contribution to the failed bid costs of shortlisted bidders, the PFI procurement process would be 'streamlined', and steps to be taken to reduce the amount of design work and resulting costs to be carried out (HM Treasury, 2012).

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The Infrastructure and Capital Investment 2012–16: Medium Term Exchequer Framework was launched in November 2011. A new coalition government was in place consisting of Fine Gael and the Labour Party. The framework stated that PPPs would continue to have a role to play in the delivery of key social infrastructure projects, additional schools bundles and projects in the health sector. It also stated that private funding had been challenging in recent years but where the PPP model could offer value for money, the Department of Public Expenditure and Reform, in consultation with the NDFA, would continue to access private funding. The Department of Public Expenditure and Reform was established in 2011 when the new coalition government came to power. It took over the functions of public expenditure from the Department of Finance and is responsible for overseeing reform of the public sector in light of the recommendations of the ROIs memorandum of understanding with the EU, ECB and the IMF, the so-called troika, of December 2010. The framework also stated that the European Investment Bank (EIB) has been a supporter of the ROI's PPP roads programme, schools projects and transport projects (Department of Public Expenditure and Reform, 2011).

The Oireachtas Joint Committee on Environment, Transport, Culture and the Gaeltacht conducted an in-depth analysis of the provision of water in Ireland and reported to the Dáil and Seanad in June 2012. This was prompted by the government agreeing to undertake an independent assessment of the provision of water services, to be carried out by PricewaterhouseCoopers (PwC), as part of the ROI's memorandum of understanding with the troika of December 2010. Responsibility for water services will transfer from the 34 local authorities to Irish Water, a new utility within the BordGáis Energy group. The PwC assessment suggested that once Irish Water was well established as a self-funding utility, the government and regulators might wish to introduce competition in water and sewerage services. The Oireachtas Joint Committee expressed concern that Irish Water should remain in public ownership and that considerations of opening the water sector to future competition should not influence the utility's operating structure when it was established.

The Minister for the Environment, Community and Local Government, Mr Phil Hogan TD, stated that water would continue to be a national resource and that it would remain a public utility and a public resource. He stated that private investment would be sought but that there was no danger of privatisation. There would, however, be water charges, commencing in 2014 (Sheridan, 2011).

Recent PPP announcements

The Minster for Public Expenditure and Reform, Mr Brendan Howlin TD, announced a €2.25 billion domestic infrastructure stimulus programme on 17 July 2012. Funding was to come from a combination of the National Pensions Reserve Fund, the European Investment Bank/Council of Europe Bank, domestic banks and private investment sources. Further details were announced on 5 June 2013 regarding Phase 1 of this plan which made up the larger part of the stimulus programme. The government also agreed a new pipeline of PPP projects valued at

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The remit of the NDFA was extended in September 2012 to allow it to provide contract management services in respect of PPP projects. Where contract management services are provided by the NDFA, the contracting authority generally retains responsibility for certain activities, such as approval and payment of invoices, approval of changes to the project agreement, issuing warning or termination notices to the PPP company, determination of benchmarking and market testing of 'testable' services and approval of changes to the ownership structure of the PPP company (C&AG, 2013, paragraph 12.8).

The NDFA can be considered as a form of what Philippe Burger, in 'Policy, Finance and Management for Public-Private Partnerships' calls a 'dedicated PPP unit within a national treasury department'. He writes that a dedicated PPP unit will monitor and judge the affordability of a project and act as a regulatory body. It will avoid the 'free-rider' issue where a government department may decide to go ahead with a PPP, even though it knows it is not affordable because it knows the government will pick up the tab. A dedicated PPP unit will create a centre of knowledge and expertise that can provide advice and assistance to individual departments (Akintoye and Beck, 2009). In the UK, in the HM Treasury's 'A New Approach to public private partnerships', produced in 2012, there is a call for a stronger Treasury role where equity investment will be managed by 'a commercially-focused central unit located in Treasury ... managed by individuals with the appropriate professional skills to oversee the investment and make commercial decisions'.

Developments since 2007

In the National Development Plan 2007–2013, PPPs were to account for 15 per cent of capital investment in the areas of transport, justice, environment, education, arts/sports/tourism and health. Of the €184 billion investment announced in the plan, 50 per cent came out of the current account. There were concerns at the time that this plan was too ambitious, especially in the context of the excessive size of the construction sector:

> [This report recommends] an NDP for the 2007 – 2013 period that, while still very ambitious, would be significantly below that envisaged in the multi-annual capital framework published as part of Budget 2006. This also implies that the government should run a surplus due to a postponement of some investment, which will be available post-2010 to finance the higher investment programme even if public finance had been hit by an economic slowdown. (Morgenroth, 2013)

Since the NDP 2007–2013 was abandoned, capital budgets have been cut successively and now amount to just 50 per cent of what had been planned in 2007, even after taking into account a 25 per cent fall in tender prices (Morgenroth, 2013). Since the advent of the credit crunch in Ireland, 24 PPP projects have been put on hold or cancelled, including Metro North, Dart Underground, and the Dublin Waste to Energy (Poolbeg incinerator) contract (Reeves, 2013b).

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Irish Congress of Trade Unions, the Construction Industry Federation and Forfás as well as the main departments and agencies engaged in the PPP programme. The framework stated that the delivery of projects through PPPs gave an opportunity to maximise the interaction and cooperation between the public and private sectors. The principal features of the framework included statements of the scope, principles and goals of the PPP programme, the identification of key project implementation issues, including the requirement for central coordination of the programme by the central PPP unit, as well as recognition of the critical role of social partnership and stakeholder consultation.

Throughout 2001 and 2002 a number of Acts were established to facilitate the financing and future participation of the State in PPPs, including (a) the Transport (Railway Infrastructure) Act 2001, which established the Railway Procurement Agency (RPA), an independent statutory public body with responsibility for procuring new metro and light rail infrastructure and services through PPPs, joint ventures or other means, as determined by the Minister with responsibility for Transport (due to be amalgamated with the National Roads Authority); (b) the State Authorities (Public Private Partnership Arrangements) Act 2002, which facilitated the participation by Irish State authorities in the PPP process by providing certainty regarding the powers of Irish State authorities to enter into PPPs and gave local authorities the power to enter into joint ventures; and (c) the National Development Finance Agency Act 2002 which created an agency that reports to the Minister for Finance and makes it the statutory financial adviser on capital projects in excess of €20 million.

By the time the National Development Finance Agency (NDFA) was launched in November 2002, the EU had decided that PPP projects should be assessed case by case and, unless significant risk was transferred to the private sector, the funds raised by the NDFA would still count against the general government balance (Reeves, 2003). The funding of infrastructure development by the NDFA is through long-term debt and equity rather than through alternative means of infrastructure financing. Providers of long-term debt have been the European Investment Bank (EIB), the Council of Europe Development Bank (CEB), the National Pensions Reserve Fund (NPRF) (now to become the Strategic Investment Fund), domestic banks, domestic pension funds and foreign investors. Equity funding has been through the sale of long-term bonds (National Development Finance Agency, 2013b). The proceeds from the sale of State assets are also mentioned as an equity source (National Development Finance Agency, 2013a).

The role of the NDFA was expanded with the National Development Finance Agency (Amendment) Act 2007. This extended the functions of the NDFA to allow it to establish a Centre of Expertise for procuring PPP projects on behalf of State authorities. Through this legislation, the NDFA was allocated a new procurement function giving the agency the power to enter into PPPs with a view to transferring them to the relevant State authority, or to act as agents for State authorities for PPP procurement. The NDFA issues formal 'Value for Money' opinions on potential projects and actively manages the procurement and delivery stages of PPP projects (Murphy, 2013).

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> cost-effective. PPP has been extensively used by a wide number of countries including the UK, France, the US, Spain, Portugal, Greece, the Netherlands, China, Hong Kong, Mexico, Turkey and many others.
>
> (National Economic and Social Council, 1999)

The NESC highlighted another possible motivation for introducing PPP as being the perceived benefits of efficiency and expertise that is not available in the public sector. Outlining the benefits of PPP, the NESC stated that financing costs are only one element as the public sector can borrow more cheaply than the private sector. The main benefit of PPP is that it offers increased value for money over traditional procurement methods. PPP, it stated, is a mechanism for obtaining private sector efficiency and expertise rather than just a way of funding infrastructure projects.

The report stated that PPP is not suitable for all projects and a framework should be developed to assess its appropriateness for different projects. It recommended that the choice between PPP and the conventional procurement approach should be made on the basis of a thorough assessment of value for money. Also, the potential to develop PPP in areas of social and community infrastructure should be explored alongside those that provide an economic benefit, such as toll roads.

The PPP approach was endorsed by the FiannaFáil-Progressive Democrat government of the 28th Dáil (1997–2002), when a number of PPP pilot projects were announced in 1999 by the Minister for Finance, Mr Charlie McCreevy TD, in the areas of roads, schools, sewerage or water treatment schemes, a solid waste facility and a section of the Luas light rail project (Connolly and Wall, 2009). The aim of the pilot projects was to identify issues and problems encountered during implementation and to use the information and learning to develop PPP policy and enhance the PPP process – a 'learning by doing' approach.

The National Development Plan 2000–2006 (NDP) confirmed the government's commitment to PPP when it listed the potential for PPP in transport and environmental projects (National Development Plan, 2000). Of the total €22.3 billion investment in physical infrastructure planned under the NDP, a minimum indicative target of €2.35 billion (10.5 per cent) was identified to come from private finance (Reeves, 2003). The social partnership agreement, Programme for Prosperity and Fairness (Department of the Taoiseach, 2000) stated that PPP would make a significant contribution to the implementation of the NDP, drawing on the experience gained from the then current PPP pilot projects. It stated that mechanisms would be introduced, agreed by the relevant social partners, and introduced to deliver efficient, transparent and fair contracts, tendering and contractual procedures for traditional and new – PPP – procurement methods.

Framework for PPPs, PPP legislation and the NDFA

In November 2001, the Minister for Finance, Mr Charlie McCreevy TD, launched 'Framework for Public Private Partnerships: Working together for quality public service' (Public Private Partnership Advisory Group, 2001). The advisory group comprised representatives of the Irish Business and Employers' Confederation, the

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applied in all or even the majority of cases. It should be seen as playing an additional or incremental role, which should not displace existing programmes or plans for exchequer capital spending, that is, traditional procurement.

The authors of the report discussed the likelihood of so-called hiccups in implementing PPPs, as experienced by the UK. Their discussions with the Treasury Task Force convinced them of the importance of a central PPP unit to be established in the Department of Finance to oversee the PPP process. This was established in January 1999, and at the same time PPP units were set up in the Departments of the Environment and Local Government, Education and Science and Public Enterprise (Connolly and Wall, 2009). The Central PPP unit (http://ppp.gov.ie/about-the-central-unit) now comes under the Department of Public Expenditure and Reform. The unit also chairs a high level Steering Committee that oversees progress on the PPP projects announced in the recent Government Stimulus Initiative. The remit of the Steering Committee is:

- to ensure the correct projects are selected and that they can be progressed in a timely manner;
- to establish milestones and delivery targets for the projects;
- to identify ways to streamline PPP processes; and
- to prepare project reports for government.

A similar approach has been adopted in the South African National Treasury where a dedicated PPP unit has been established. It has the final authority in the approval of PPP agreements (Akintoye and Beck, 2009).

The National Economic and Social Council, the National Development Plan 2000–2006 and the Programme for Prosperity and Fairness (1999)

In 1999 the National Economic and Social Council (NESC), which advises the government on strategic issues for Ireland's social and economic development, supported the introduction of PPPs in the ROI and justified it as a means of filling the infrastructure gap:

> As the pace of economic growth in both developed and developing countries over the last 20 to 30 years has proceeded, infrastructure needs have become more acute. Budgetary pressures have forced governments and other public sector agencies to look for alternative solutions to finance infrastructure.

The NESC outlined the use of PPPs in Europe and internationally:

> In Europe, these pressures have been heightened due to the constraints imposed by the Maastricht criteria and now the Stability and Growth Pact. At the same time, there has been a general thrust towards increased privatisation, with growing recognition that private sector provision of services and functions previously provided directly by the State can be more efficient and

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expertise not available in the public sector (National Economic and Social Council, 1999). This point is discussed later in this chapter.

Perhaps political expediency is an alternative reason for the introduction of PPPs as they offer short-term political attractions to governments by providing early project infrastructure and also moving capital expenditure off budget (Hodge *et al.*, 2007). On the global political stage PFI-type PPPs enjoy policy popularity as well as commercial attractiveness. They are an attractive policy for governments that are eager to please markets (ibid.).

Political expediency might also have been a function in why the government of the day was receptive to the suggestions of the private sector. In January 1998, the Irish Business and Employers' Confederation (IBEC) and the Construction Industry Federation presented a detailed submission to the Irish government which argued for the use of PPPs as a means of addressing the infrastructure deficit (Reeves, 2003).

The rest of this chapter outlines the key reports and steps taken in the ROI that led to the introduction of PPPs. This approach is similar to the one taken by Ciaran Connolly and Tony Wall (2009) in 'Public Private Partnerships in Ireland: Benefits, Problems and Critical Success Factors'.

Farrell Grant Sparks et al. *report*

In 1998, an interdepartmental group (IDG) was established to advise the ROI government on the potential for PPPs. The IDG commissioned a report to explore the possibility of introducing PPPs into the ROI, particularly in roads. Farrell Grant Sparks and Goodbody Economic Consultants, in association with Chesterton Consulting reported to the IDG in relation to PPPs in July 1998. The report developed criteria for and advised on the issues arising in implementing the PPP concept.

Among issues addressed were:

- the criteria to be applied in considering whether to adopt the PPP approach, taking account of the economic and budgetary contexts;
- the determination and prioritisation of the key objectives of the PPP approach, with particular reference to roads projects;
- the possibilities regarding partial self-financing of projects;
- the construction of hypothetical cases for comparison purposes using a public sector comparator model (PSC) to illustrate costs and benefits of model cases;
- the identification of areas where the highest level of savings were likely to arise from the use of PPPs.

The report identified three advantages in PPP procurement: focus on service outcomes rather than the provision of assets; optimum risk allocation; and value for money. The report stated that the PPP approach should not be pursued where it is inappropriate, and it listed criteria that are key to reaching a decision on the implementation of PPPs. The report concluded that PPP is not a panacea to be

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> The increasing weight of infrastructural investment, which will be required in the future, coupled with the Government's commitment of fiscal restraint, has presented an opportunity to seek other ways of financing costly capital needs of the country. Therefore it is my aim to attract greater participation from the private sector in the financing and development of infrastructure projects. (Press release, Minister for Finance, 25 May 1998 quoted in Reeves (2003))

The rationale for the adoption of PPPs may be attributed to the problems associated with the ROI's infrastructural deficit. This came about from the curtailment of the capital programme followed by a period of rapid economic expansion. The period from the 1980s to the early 1990s saw the curtailment of the public capital expenditure programme, with expenditure in real terms falling each year from 1982 to 1989. The renewal of public capital investment from the late 1980s relied heavily on fiscal transfers from the EU (Reeves, 2003). Between 1993 and 2000 the annual real growth rate of the Irish economy was more than double the average recorded over the previous three decades – over 8 per cent compared with 3.5 per cent. Ireland was the fastest growing economy in the OECD by the year 2000 (Reeves, 2003).

Despite the EU injections of investment there were concerns about the need for greater investment in physical infrastructure due to Ireland's rapid economic expansion. There were also concerns about the prospect of reduced investment by the EU (Reeves, 2003). It is arguable that this prospect of reduced investment was a consequence of the rapid economic expansion. It was accepted that it was important to invest in infrastructure to sustain economic growth.

The ROI was limited, however, by fiscal constraints in the form of the Maastricht Treaty convergence criteria, imposed by membership of the single European currency.The criteria stipulated that the budget deficit should not exceed 3 per cent and the ratio of gross government debt to GDP should not exceed 60 per cent. However, Ireland's budget deficit never went above 3 per cent during the 1990s and the ratio of gross government debt fell below 60 per cent in 1998 and remained there until 2008. In fact, the exchequer current account was in surplus consistently from 1996 to the end of 2007 and the overall exchequer balance was in surplus from 1998 to the end of 2004 with the exception of 2003 (Department of Finance, 2003; Department of Finance, 2012). A similar situation occurred in the UK during this period when economic performance was within the convergence criteria, yet the government pursued a policy of Private Finance Initiative (PFI) (Gaffney *et al.*, 1999), although the UK was not subject to the convergence criteria, as it had not indicated a wish to join the euro.

Nonetheless, the Minister for Finance decided to promote PPPs as a means of easing burdens on the exchequer (Reeves, 2003). The unanswered question is why, at a time when the country was fiscally healthy, the Irish government pursued a programme of private sector involvement and an injection of private finance in the delivery of service and infrastructural projects.

The National Economic and Social Council highlighted one possible reason for the introduction of PPPs as being the perceived benefits of efficiency gains and

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Farrell Grant Sparks and Goodbody Economic Consultants, in association with Chesterton Consulting (1998) *Report to the Inter-Departmental Group in Relation to Public Private Partnerships*. July 1998, Available from: http://ppp.gov.ie/wp/files/documents/miscellaneous/PPP_Reports/fgs-ppp-report-1998.pdf.

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approach is cheaper but the PPP was proceeded with. The C&AG has also stated that the NDFA has carried out value-for-money testing but has not published the results because of commercial sensitivity issues.

Since the advent of the banking and financial crises of 2007 and the bailout by the EU, ECB and the IMF 'troika', the ROI has increased its PPP programme. The State no longer has the funds to finance solely the delivery of services and infrastructure projects and requires private investment. In the absence of value-for-money audits on current PPP projects, we cannot conclude whether these projects have achieved the objectives initially set out and whether the PPP approach is the appropriate method in which to involve private investment in the delivery of public services.

What can be concluded is that the government believed the private sector would deliver projects more economically, efficiently and effectively than the public sector. As the government has continued down the PPP route, as evidenced by the fact that Ireland is among the countries with the largest increase of PPPs relative to GDP over the past five years (along with Spain, the UK, France, Germany and Italy) (Reeves 2013a), it still believes this to be the case.

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involvement was formalised during the 28th Dáil (1997–2002) under the economic liberalisation policies of the Minister for Finance, Mr Charlie McCreevy, TD. There was a highly visible political commitment at the time to the PPP approach with the backing of the Taoiseach, the Minister for Finance and senior Ministers, although there was no overriding imperative to do so.

PPP was introduced after the publication of the Farrell Grant Sparks *et al.* report (1998). The reasons for its introduction were the infrastructure deficit through underfunding, in tandem with rapid economic expansion and fiscal constraints imposed by the Maastricht Treaty convergence criteria. However, budget deficit and government debt of the time were such that they would have allowed capital expenditure without breaching the convergence criteria. Other reasons for the introduction of PPP therefore might be efficiency gains and expertise not available in the public sector, not to mention political expediency where PPP offered early project infrastructure delivery and the movement of capital expenditure off-balance sheet.

During the 28th Dáil, Charlie McCreevy announced pilot projects in roads, schools, transport, water and wastewater. The National Development Plan 2000–2006 confirmed the government's commitment to PPP when it listed the potential for PPP in transport and environmental projects. The social partnership agreement, Programme for Prosperity and Fairness of 2000 implicitly endorsed PPP and brought in unions and employees for the first time. PPP was further endorsed by the multi-stakeholder advisory group comprising representatives of the Irish Business and Employers' Confederation, the Irish Congress of Trade Unions, the Construction Industry Federation and Fórfas, which produced the 'Framework for Public Private Partnerships: Working together for quality public service' document in 2001. This stated that projects delivered through PPP gave an opportunity to maximise the interaction and cooperation between the public and private sectors. The centralisation of PPP as a procurement method was officially recognised by the formation of the National Development Finance Agency in 2002 which acts as a centre of expertise for PPPs and statutory finance adviser on capital projects in excess of €20 million.

The National Development Plan 2007–2013 reaffirmed the government's commitment to PPP, but some projects have been cancelled as a result of the economic downturn. The new coalition government of 2011 introduced the Infrastructure and Capital Investment 2012–16: Medium Term Exchequer Framework, which states that PPP still has a role to play in the delivery of key social infrastructure projects, schools and projects in the health sector. The domestic infrastructure stimulus programme announced in 2012, part of which is to be delivered through PPP, is an attempt to stimulate the economy, reduce the infrastructure deficit and create employment.

The Comptroller and Auditor General has carried out an evaluation of PPPs in the pilot schools project and identified issues with risk sharing in two road transport PPPs, where the State is obliged to make guaranteed payments to the PPP companies involved. The C&AG has stated that PPP procurement should be employed only where it is clearly established that it provides best value for money overall. However, Reeves (2013a) cites one case where the traditional procurement

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of risk transfers from the public to the private sector; and predicted benefits being estimated at an early stage of a long-term contract, at a time when optimism and political sensitivity are both high. Some of these have been borne out in the C&AG's value for money report No. 48) of the Grouped Schools Pilot Project (2004).

The Report of the Comptroller and Auditor General and Appropriation Accounts 2012 (September 2013) states that the NDFA has carried out VFM testing on the recent third schools bundle project but the results of the final deal have not been published as it could compromise the NDFA's negotiating strategy and be detrimental to achieving optimal outcomes for other projects currently being procured.

Again, value for money cannot be assessed in the public domain because of commercial sensitivity issues.

The Report of the Comptroller and Auditor General and Appropriation Accounts 2012 (September 2013) discusses post-project review of PPPs in chapter 3. Under the Public Spending Code issued by the Department of Public Expenditure and Reform, it is the responsibility of the project sponsor to ensure post-project reviews are carried out for all capital projects valued in excess of €20 million (C&AG, 2013, paragraph 3.20). This requirement applies regardless of whether the project was procured through PPP or by traditional procurement. It states that the aim of reviewing the outcome of the project includes determining whether:

- the basis on which a project was undertaken proved correct;
- the expected benefits and outcomes materialised; and
- the planned outcomes were the appropriate responses to actual public needs.

A post-project review of the Criminal Courts Complex PPP was completed in October 2012 (C&AG, 2013, paragraph 3.28). The aim of the review was to determine whether any stage of the Criminal Courts project could have been done better and any lessons applied to future projects. The review approach concentrated on assessing the processes used rather than the outcome of the project in terms of its impact on court business. The review concluded that all the project objectives had been realised and the project process had been satisfactory. The review suggested that further analysis should be carried out to assess the operational impacts resulting from the delivery of the project.

A number of reviews of PPPs are in progress. The Central Expenditure Evaluation Unit of the Department of Public Expenditure and Reform is conducting a policy assessment on compliance in the local authority sector with the VFM procurement model for PPPs in relation to water projects; the Department of Education and Skills is conducting a review of the pilot schools PPP project which became operational in 2003; and the National Roads Authority has indicated that reviews of a number of roads schemes are in progress.

Conclusion

Since the foundation of the State, the Republic of Ireland has had private sector involvement in the delivery of services and infrastructure projects. This

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