The Sustainability of Public Private Partnership in Ireland: A theoretical framework

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The Sustainability of Public Private Partnership in Ireland: A theoretical framework

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Abstract

There has been private sector involvement in the delivery of public services in the Irish State since its foundation. Ireland is a latecomer to PPP and, prior to the credit crisis, was seen as a 'rapid follower' relying primarily on the UK PPP model in the procurement of infrastructure in transport, education, housing/urban regeneration and water/wastewater. PPP activity in Ireland stalled during the credit crisis, and some projects were cancelled, but it has taken off again recently with part of the Infrastructure and Capital Investment Plan 2016 – 2021 to be delivered through PPP showing continuing political commitment to PPP.

Ireland's interest in PPP cannot be explained by economic rationale alone, as PPP was initiated during a period of prosperity. We consider three alternative explanations: voluntary adoption – where the UK model was closely followed; coercive adoption – where PPP policy was forced upon Ireland; and institutional isomorphism – where institutional creation and change was promoted to aid public sector organisations in gaining institutional legitimacy. We find evidence of all three patterns, with coercive adoption becoming more relevant in recent years.

This paper therefore asks why PPP was adopted and how this adoption pattern has affected the sustainability of PPP in Ireland. This paper defines PPP; examines the background to the PPP approach adopted in Ireland; outlines the theoretical framework of the paper: transfer theory and institutional theory; discusses the methodology; reports on findings and gives conclusions.

Keywords: Public private partnership, policy transfer, isomorphism

Type of paper: Short paper

1 Definition of Public Private Partnership

According to the UK government, PPPs can be described as procurement approaches that bring public and private sectors together in long-term partnerships for mutual benefit (Akintoye et al., 2003). The Irish government defines PPP as a public services and infrastructure procurement method with an emphasis on value for money and delivering quality public services.[i]

2 Background: PPP Adoption in the Republic of Ireland

Ireland has a history of private sector involvement in service and infrastructure delivery. Religious institutions have run schools and hospitals (Connolly et al., 2009b), and in the 1980s and 1990s Dublin's toll bridges were built with private sector involvement and there was privatisation of refuse collection (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, in association with Chesterton Consulting, 1998). There was little justification of why the Irish government should adopt these policies (Hearne, 2009). The motivation appears to have been filling the so-called infrastructure gap, which arose from curtailment of capital spending in the 1980s and 1990s. Thereafter investment relied heavily on fiscal transfers (Reeves, 2003). Between 1993 and 2000, European transfers became less important due to economic growth which made Ireland the fastest growing OECD economy by 2000 (Reeves, 2003). Ireland's budget deficit never went above 3% during the 1990s and the gross government debt ratio fell below 60% in 1998 until 2008. Accordingly, there was no pressing need to finance infrastructure through PPP, so why did a fiscally healthy Ireland engage in PPP? Explanations for the adoption of PPPs arise from the literature on policy transfer and institutional isomorphism, which are discussed below.

3 Theoretical Framework: Policy Transfer Theory and Institutional Theory

The study of policy transfer draws on policy diffusion studies, a sub-set of comparative politics literature (Evans, 2009; Dolowitz et al., 1996). Policy transfer causes organisations to mimic others (Dolowitz et al., 1996). Early transfer studies focused on voluntary transfer which can occur where there is dissatisfaction with the *status quo* and perceived policy failure. More recent studies explore coercive transfer which occurs when supra-national institutions, eg IMF, force the adoption of a policy (Dolowitz et al., 1996).

Some studies of change involving the diffusion of institutional elements utilise policy transfer and institutional isomorphism as cognate terms (Marsh et al., 2009). There is a rationale for combining policy transfer and institutional theories (Radaelli, 2000) and this study takes this approach. Governments operate in an institutional environment which influences their actions (Matos -Castaño et al., 2014), and institutional theory can explain why governmental organisations often mimic each other (Connolly et al., 2009a). Institutional theories assume that, to gain organisational legitimacy and secure access to resources, organisations must meet expectations by external and internal stakeholders (Brignall et al., 2000). Organisational structure, policies and procedures relate to expectations and 'myths' about what is socially and economically acceptable, which are rationalised and gain legitimacy (DiMaggio et al., 1983; Brignall et al., 2000).

DiMaggio and Powell (1983) describe three types of institutional isomorphism – coercive, mimetic and normative. Connolly et al. (2009a) suggest UK PPP adoption was mostly coercive as projects would otherwise not be implemented (Newberry, 2004). The manner in which PPPs were introduced into Ireland is said to have involved 'mimicry' rather than coercion.

Research into the institutional impacts on the implementation of PPP explores successful institutional environments as a context where governments understand the complexity of PPPs (Willems et al., 2011). PPPs require new types of institutional capacity (Jooste et al., 2009) and institutional shortcomings can lead to performance problems and a lack of transparency (Matos-Castano et al., 2014).

Jooste, Levitt and Scott (2009) propose a theoretical framework of PPP success/sustainability including 19 measures grouped under the three main objectives necessary to ensure the successful development of a PPP: building capacity, obtaining legitimacy and balancing interests (Jooste et al., 2009). We apply nine measures to our study[ii] combining the framework with Dolowitz and Marsh (2000) predictions to explore whether institutional environments were changed to make PPP policy sustainable.

Based on the literature, we expect that the most sustainable PPP environment 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 [see Table 1]. 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 weak institutional capacity building. The results section examines these aspects in the Irish context.

Table 1: Factors affecting the sustainability of PPP policy transfer

LEVEL OF CAPACITY BUILDING

TYPE OF POLICY TRANSFER

		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

4 Methodology

The research takes a predominantly deductive approach in which the predictions of our combined framework are contrasted with concrete experiences of recent Irish PPP developments. We draw on a series of key PPP policy-making documents. Our focus is on how patterns of PPP adoption and aspects of institutional capacity building have affected the sustainability of Ireland's PPP programme. The analysis suggests improvements in the sustainability of this PPP programme to avoid the rapid policy shifts observed in other venues.

5 Results

Evidence of Policy Transfer

Ireland's role as a late adopter of UK style PPP is exemplified by PPP policy guidelines produced in the UK and Ireland (Sheppard, 2016). Guidelines for the local government sector (Department of the Environment, 2003) closely mirrored the UK Green Book (HM Treasury, 2003). These concern PPP project implementation; public sector training; expertise provision through a procurement unit; allocation of risk between parties; and the public sector comparator.

Evidence of Institutional Capacity Building

Applying the Jooste, Levitt and Scott framework (2009), our analysis of institutional sustainability focuses on nine measures: supportive legal framework, political commitment, buy-in from key constituents, good public sector knowledge of PPPs, a PPP unit, measures to coordinate deal flow, program transparency, and ensuring project quality while implementing independent oversight.

(1) Supportive legal framework

In 2001-02 Ireland legislated 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 expanded through amending legislation tasking it with establishing a Centre of Expertise for PPP. The NDFA also was to provide contract management services for PPPs. Accordingly a consistent legal framework to support PPP implementation appears to be in place.

(2) Political commitment

PPP was endorsed by the government in 1999 through a number of PPP pilot projects (Connolly et al., 2009b). The National Development Plan 2000 – 2006 (NDP) confirmed government commitment by highlighting its potential in transport and environmental projects. This was abandoned with the crisis which put 24 projects on hold (Reeves, 2013b).

Following recommendations by the Irish Business and Employers Confederation (IBEC), the Minster for Public Expenditure and Reform announced a €2.25 billion domestic infrastructure stimulus programme in 2012, [iii] with €1.4 billion delivered through PPP. The government also agreed €250 million in new PPP projects in schools, energy efficiency and roads.

One motivation for this PPP programme was to stimulate the economy. Moreover, the NDFA explained that PPP helped keep borrowing ‘off balance sheet’ (NDFA, 2013). This suggests that the relevance of PPP to Irish politics changed significantly by 2013. PPP was no longer voluntary but became a necessity in maintaining adequate public investment. Political commitment had increased considerably from PPP being seen as a fashionable approach to procurement which created an image of modernisation and modernity in line with UK policy, to PPP being the main option in dealing with a capital spending shortfall.

(3) Buy-in from key constituents

Buy-in from key constituents is illustrated by key submissions and reports supporting PPPs by organisations such as the Irish employers' association, the construction industry, advisory groups and, initially, trade unions and community groups. In 1998, the employers' association and the Construction Industry Federation (CIF) presented a report to government which argued for PPPs as a means of addressing the infrastructure deficit (Reeves, 2003). 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 NDP and that relevant social partners would agree mechanisms to deliver efficient, transparent and fair contracts, tendering and contractual procedures for PPP procurement.

The November 2001'Framework for Public Private Partnerships' (Public Private Partnership Advisory Group, 2001) created an advisory group comprising representatives of employers, trade unions, the CIF and the main PPP agencies. The unions interpreted the PPP consultation guidelines as stipulating detailed consultations on Procurement Assessment Reports (PAR), which consider different procurement alternatives in terms of economics, engineering and organisation. [iv] In the case of a replacement wastewater treatment plant PAR in 2007, engagement with stakeholders took place (Reeves, 2013a). In the case of another PAR in mid-2006, of a mixed tenure housing and urban regeneration PPP, consultation was less cooperative and failed to facilitate agreement. The economic crash resulted in this PPP project collapsing in 2008 (Reeves, 2013a).

There appears to have been buy-in to PPP by employers, the CIF and, initially, the unions. Trade union experience with the 2006 PAR and the experience in the mixed tenure housing development indicate that this has been less so in recent years as PPP implementation has become more coercive.

(4) Improving public sector knowledge of PPPs

In 1998 an interdepartmental group (IDG) commissioned a report on the introduction of PPPs with a focus on roads, which 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 et al., 2009b).

There is evidence of efforts to provide PPP-specific training to public sector staff. Also it appears the IDG endeavoured to learn from the UK experiences, but it is unclear whether this was effectively communicated to key public sector managers.

(5) Establishing a PPP unit

Founded in 2002, the NDFA can be considered partially to fulfil the functions of 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’. Irish employers’ 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. This is mirrored by trade union demands for cross-departmental coordination of PPP activity (Irish Congress of Trade Unions 2011), which suggests that while the NDFA acts partially as a PPP unit, it does not yet fulfil all the functions it ideally should.

(6) Coordinating deal flow

In March 2013, the Minister for Public Works 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; reimbursing bid costs to unsuccessful bidders; and streamlining the PPP process with less documentation prior to bidding.

There are similarities between this and the PF2 reform measures introduced in the UK 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). During the crisis the UK expected the pipeline of PFI deals to stimulate national and local economies (National Audit Office, 2010), which mirrors Ireland’s expectation that an infrastructure stimulus would be delivered through PPP.[v]

Both Ireland and the UK have taken measures to increase the PPP deal flow post the 2008 crisis. This reflects the vulnerability of the PPP industry to economic shocks and indicates that both Ireland and the UK lacked a well structured national infrastructure policy. The similarities of adopted measures indicate a lasting legacy of policy transfer.

(7) Improving programme transparency

Policies aimed at improving the transparency of the PPP process in Ireland have been contradictory. 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 '... 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.'[vi] The NDFA carried out value for money testing on a schools bundle project, but the results of the final deal were not disclosed as they could compromise negotiations. Similarly when discussing PPPs carried out by the Department of Education, the Secretary General of the Department responded to requests for disclosure 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 et al. 2004). It is not surprising that employers have called for greater transparency around the planning process (IBEC, 2013). Although value for money assessments are given central importance by the Irish government, full evaluation is not taking place.

(8) Ensuring project quality

Expected benefits of PPP included a focus on service outcomes rather than 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 noted that procuring/running schools through PPP would result in a saving of around 6%. However, recognising 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',[vii] subsequent analysis suggested that PPP was between 13% and 19% more expensive, with relatively little risk transfer to the private sector.

Reeves (2013a) writes that the Department of the Environment initially estimated the whole-life costs of a replacement wastewater treatment plant to be 2.3% lower under traditional procurement, but a re-worked estimate indentified a differential of less than 1% in favour of traditional procurement. Nonetheless, the Department proceeded with the PPP (Reeves 2013a). Despite problems, there is evidence of some success, as exemplified by a post-project review of the Criminal Courts of Justice PPP,[viii] where a 2008 C&AG report verified 6% lower costs for the PPP (IBEC, 2011).

Regarding the quality of Irish PPP projects, there is only mixed evidence of value for money and risk transfer being achieved, with some projects performing within or above expectations and others being disappointing.

(9) Implementing independent oversight

Regulatory oversight of Irish PPPs is problematic. Responsibility for water services and water/wastewater PPPs transferred from the 34 local authorities to stated-owned 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 in providing water and wastewater services. [ix] Whether this will involve the publication of information on PPPs is unclear.

As statutory financial adviser, the NDFA oversees procurement of PPPs in sectors other than transport, local authorities and certain education projects.[x] 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.

This suggests a high degree of fragmentation in the regulatory oversight of Irish PPP, which would be unproblematic if each agency carried out its assessment to similar standards. However, current practice makes performance comparisons of PPPs across different areas difficult.

6 Conclusions

The objective of this paper was to identify the impact of adoption patterns on the sustainability of PPP. Combining policy transfer and institutional theory, four possible adoption patterns were identified:

- voluntary policy transfer with 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.

Preliminary research suggests 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. This was largely attributed to industry expectations which had developed within the UK PFI market.

In the pre-crisis period, government saw PPP as a means of catching up with 'modern procurement methods' as practised in other English-speaking countries such as the UK where ministers wanted to introduce 'innovative, entrepreneurial business values' into public services (Weaver, 2003). More recent Government documents and other published reports seem to indicate that PPP has 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.

Despite this not all the nine factors have been achieved. We found mixed results in gaining buy-in from key constituents, which was fairly broad in the early stages, with support being articulated by the employers' association, industry bodies and trade unions but eroded by the late 2000s, with trade unions as well as community groups voicing concerns over inadequate consultation.

The lack of frameworks for ensuring PPP quality appears to be the most significant institutional barrier to the sustainability of Irish PPP. This concerns the issues of objective and systematic value for money evaluations of existing and future deals. Uncertainty about risk allocation between partners and the costing of risk transfer seems to affect adversely the accuracy and reliability of value for money calculations.

Major difficulties in the sustainability of Irish PPPs also arise from lack of transparency and poor oversight. Overall, the institutional framework is not fully developed and there is need for improvement.

PPP is not the only game in town and from a practitioner point of view the adoption of PPP 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 enough to prevent excessive profits, there is a real danger of PPP becoming a long-term threat to public finance. 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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[i] www.ppp.gov.ie

[ii] The following remaining measures will form part of our extended study were: 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

program accountability; ensuring management support to public sector agencies on specific projects; ensuring PPP projects promote the public interest; ensuring fairness of PPP procurement; and improving environmental performance of projects.

[iii] http://per.gov.ie/2012/07/17/minister-howlin-announces-an-additional-e2-25-billion-domestic-infrastructure-stimulus-to-create-much-needed-jobs/

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

[v] See note ii

[vi] C&AG Report on the Accounts of the Public Services 2011 (September 2012), chapter 6, paragraph 6.30 and 6.50.

[vii] C&AG Report on Value for Money Examination 48, The Grouped Schools Pilot Partnership Project, June 2004, page 11.

[viii] C&AG Report on the Accounts of the Public Services 2012 (September 2013), paragraph 3.28.

[ix] www.CER.ie/water/

[x] C&AG Report on the Accounts of the Public Services 2013 (September 2014), paragraph 17.29.

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