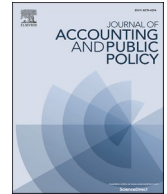




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Transparency trade-offs in the operation of national Public Private Partnership units: The case of Ireland's National Development Finance Agency

Gail Sheppard^{a,*}, Matthias Beck^b^a School of Business, Maynooth University, Ireland^b Cork University Business School, University College Cork, Ireland

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ABSTRACT

Since 2002, the Irish National Development Finance Agency [N DFA] has played a leading role in the procurement of Public Private Partnership [PPP] projects in Ireland (UNECE, 2008). It has procured 9 PPP projects bundles, which are currently listed on its website, between 2002 and 2022¹ in addition to Primary Care, Justice, OPW and Education bundles not currently listed on its website. Ireland follows a global pattern where national or provincial PPP units, frequently organised as arm's-length bodies, play a central role in managing the partnership-based procurement of infrastructure projects (Burger, 2009). This paper examines how the N DFA, acting as Ireland's PPP unit, has affected the transparency and accountability of Irish PPP procurement. Our analysis indicates that the expanding role played by the N DFA has been depoliticisation and agencification. Our analysis deviates from some previous critical studies of PPP agency governance (Szešcico, 2020) in that we argue that agencification can adversely affect some aspects of PPP transparency while strengthening others, such as selection process transparency. Nonetheless, we suggest the approach to PPP procurement could harm the long-term sustainability of Irish PPP. Using the example of Ireland, our paper contributes to an understanding of the impact of such institutional arrangements on transparency and accountability of PPP procurement.

1. Introduction

Infrastructure in Ireland was traditionally procured via Public Works Contracts (Dáil Éireann, 2022b). This approach incorporated ten forms of Contract for Public Works, each tailored to different circumstances.² Public Private Partnerships, as an alternative to Public Works Contracts, were adopted in Ireland in the late 1990s. These partnerships involve long-term contractual arrangements where risks, costs and benefits are shared between public and private partners (Burke and Demirag, 2017; Hodge and Greeve, 2018). Initially Irish PPPs closely followed the Public Finance Initiative [PFI] format, one of the oldest PPP variants, introduced in the UK in 1992 (Connolly and Wall, 2009). PFI emerged during the UK's New Public Management reforms (Caperchione et al., 2017; Khadaroo, 2008), aimed at debureaucratising public services procurement and promoting privatisation (Bures, 2013; Dunn-Cavelty and Suter, 2009). Ireland initiated PPP later than the UK without as explicit a link to neo-liberal reform agendas.

* Corresponding author at: School of Business, North Campus, Maynooth University, Maynooth, Co. Kildare W23 WK26, Ireland.

E-mail address: gail.sheppard@mu.ie (G. Sheppard).

¹ ndfa.ie/projects

² Contracts | Capital Works Management Framework (constructionprocurement.gov.ie)

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Today, PPP units, also known as PPP support units, are typically tasked with providing institutional support for potential PPP clients within government. They usually play a role in PPP project-related coordination activities, quality assurance, procedural accountability and as information provider. In some jurisdictions, the PPP unit is only an adviser. In others the role of PPP units can extend to the management of PPP procurement and projects (Matos-Castaño, 2011). The literature suggests the involvement of PPP units can increase the legitimacy of PPP by ensuring private sector involvement follows value for money [VFM] criteria, while project selection and procurement is conducted transparently and consistently (Matos-Castaño, 2011). Criticisms of PPP units have centred on the role they can play in institutional depoliticisation (Flinders and Buller 2006), which may be undesirable where accountability mechanisms embedded in political systems offer greater transparency than those supported by arm's-length government bodies (Bressanelli et al., 2020), and where other forms of accountability are lacking (Bourdieu, 2002).

This paper explores transparency and, by proxy, aspects of accountability in Irish PPPs. We ask whether PPP policy in Ireland has been depoliticised because of the operation of the NDFA as national PPP unit. We examine this by exploring how the role of the NDFA has affected transparency in different stages and aspects of the PPP procurement process. Specifically we explore how the transition of the NDFA to a PPP unit has affected broader issues of accountability and relate this to our view of the future of PPP in Ireland and the PPP unit-led model of public–private procurement more generally. Our examination of these themes contributes to existing literature by exploring the ramifications of agency governance of PPP procurement and highlighting potential interactions between rising levels of depoliticisation, PPP unit use, rebureaucratization, and the perceived transparency and accountability of PPP procurement. We also highlight potential means of addressing these issues, which we believe will be important to PPP post Covid-19, when future austerity is likely to increase the use of PPP in Ireland and other countries and the reliance on PPP units has expanded globally.

Our study comprises of semi-structured interviews conducted as part of a larger study. Interviewees included actors from Irish public, private and civic sectors across education, transport, justice and health sectors. Data was analysed using a thematic approach and findings from interviews were triangulated with government policy documents. Overall, we find that the Irish agency-centred PPP procurement system can be improved in terms of transparency, amongst other things, which will in turn enhance the long-term sustainability of the policy.

The remainder of this paper is structured as follows. First, we discuss some institutional details surrounding Ireland's adoption of PPP, next we review relevant literature on depoliticisation, accountability, transparency and rebureaucratization in relation to PPP, and outline a tentative conceptual map. We then discuss our methodology. Our analytical section evaluates PPP policy in Ireland, focusing on the NDFA as a partly depoliticised arm's-length government agency. To conclude, we return to our tentative conceptual map and discuss means for improving PPP transparency within PPP unit-based organisational set-ups.

2. Institutional details

PPP was introduced in Ireland in 1999 in roads, waste management and education (Burke and Demirag, 2017), and extended to justice and primary care (Sheppard, 2019). Why Ireland introduced PPP is not clear (Hearne, 2009), but under-investment in infrastructure may have been a cause, together with a desire by the then Minister for Finance to emulate UK-style approaches to procurement (Sheppard and Beck, 2016). Additionally, there were expectations regarding the achievement of risk transfer and VFM (Burke and Demirag, 2017). Since the global financial crisis of 2008, PPP in Ireland has been viewed mostly as a means of stimulating the economy while keeping new infrastructure costs off-balance sheet (Sheppard, 2019). Consequently, PPP use in Ireland has expanded following a brief lull during the global financial crisis, leading to Ireland having overtaken the UK³ and some larger European countries in PPP-based procurement. With the new phase of the Irish PPP programme announced by the Government on 29 September 2015, amounting to €500 million,⁴ Ireland's PPP investment now exceeds that of Bulgaria and Portugal (Iossa, and Saussier, 2018).

Ireland established a PPP division in January 1999 in the Department of Finance to oversee PPP procurement. Similar divisions were set up in the Department of the Environment and Local Government, Education and Science and Public Enterprise (Connolly and Wall, 2009). The Department of Finance's division now resides in the Department of Public Expenditure and Reform [DPER] where it hosts a high-level Steering Committee which oversees progress on the PPP programme.⁵ Separately, Ireland launched the NDFA, an arm's-length semi-governmental agency, under the National Development Finance Agency Act 2002. The main mission of the NDFA has been to accelerate PPP-based infrastructure development. The NDFA offers financial advice to State authorities on public investment projects with a capital value over €75 million and is subordinate to the National Treasury Management Agency [NTMA] (NDFA, 2021). It employs sixty staff members⁶ and has a Finance and Operations and Project Management sections. Initially tasked with raising funds for government infrastructure projects, the NDFA's role expanded gradually. In 2007 the NDFA established a Centre for Excellence in PPP procurement to provide Value for Money [VFM] assessments for PPP projects and help manage PPP procurement and delivery. The NDFA's remit expanded further in 2012 to include management services for PPPs. Today the NDFA provides contract management and support services for the operation and maintenance of certain PPP facilities and directly procures some state-funded projects for the Department of Education (NDFA, 2021). While the NDFA provides VFM assessments, and manages PPP procurement

³ In his budget speech on 29 October 2018 the UK Chancellor of the Exchequer, Philip Hammond, confirmed that the UK Government will abolish the use of PFI and its successor, PF2, as the basis for future public–private partnership projects, and that he will not sign any PFI or PF2 contracts <https://www.lexology.com/library/detail.aspx?g=85874bfd-d2e8-458f-a6c5-1a249c31e09c>.

⁴ <https://www.ndfa.ie/our-services/building-on-recovery-infrastructure-and-capital-development-2016–2021>.

⁵ Central Unit | Public Private Partnership (ppp.gov.ie).

⁶ Organisation Structure - National Development Finance Agency National Development Finance Agency (ndfa.ie).

and delivery, the Steering Committee in DPER ensures the correct projects are selected and progressed in a timely manner; establishes milestones and delivery targets for projects; identifies ways to streamline PPP processes and prepares project reports for government.⁷ The NDFA has made little effort to enhance the transparency of the Irish PPP procurement process, arguing it has to be limited to protect commercial sensitivity (Sheppard and Beck, 2016). Similarly, the NDFA appears to have been reluctant to initiate post-completion reviews of PPP projects.

The NDFA nonetheless can be considered a PPP expert unit, similar to *Partnership British Columbia* and *Infrastructure Ontario* in Canada (Whiteside, 2020). Like these, the NDFA is a specialised government agency that assists government departments procuring PPPs (Akintoye and Beck, 2009), while aiming to increase support and legitimacy for Ireland's national PPP policy (Matos-Castaño, 2011).

3. Theoretical underpinnings

PPP units are relatively novel, although now a significant part of national PPP landscapes. The World Bank recently (2022) created a webpage that lists and provides links to country PPP units.⁸ As of April 6, 2022 this page provides links to 7 international units and 154 national units spanning 12 regions and lists only 20 countries as not having a PPP unit.

Criticisms of PPP units typically relate to the possibility of depoliticisation of PPP procurement and operations. Depoliticisation was identified first by Burnham (2001, p.217) as a governance strategy of Britain's New Labour government in the 1990s, when it engaged in a 'process of placing at one remove the political character of decision-making'. Burnham (2001) attributed this to an attempt to shield the government from public reactions to unpopular New Public Management style policies, while allowing for a light-touch financial regulatory regime meant to keep public expenditure in check (HM Treasury, 2021). In the PPP context, the approach centres on keeping costs of completing running projects under control. So, on-time and within-budget completion were emphasised as principal performance criteria for PPP in National Audit PPP reports (HM Treasury, 2021; Edgar and Beck, 2016). The emphasis of these reports on PPP as a means of cost control perhaps can best be understood by considering the history of cost overruns in public sector construction projects, which were often accompanied by delays in completion (Miranda Sarmiento and Renneboog, 2017). While the focus was on predictable policy outcomes and risk sharing with the private sector, some research has argued PPP in the UK became a prime vehicle in efforts to shift decision-making functions away from politicians towards "specialised technical actors" such as consultancy and advisory firms (Willems and Van Dooren 2016, p.2). In the PPP context, the involvement of non-political external consultants was often justified by a lack of resources and expertise in PPP policy design and implementation among public sector organisations (Asenova et al., 2002; Papadopoulos, 2003).

The broad use of arm's-length agencies in the UK has led to criticism of 'agencification', 'quangoisation' and the 'delegation of regulatory tasks' to policy networks (Papadopoulos, 2017, p.134), raising critical questions about the suitability of the agency or quango model to contexts where high levels of political accountability are needed (van Thiel, 2004; Flinders and Skelcher, 2012). Agencification in general, and in the PPP context in particular, relates to the creation of a special type of a public body, separate from government departments but funded by government, where ministries formulate policy which the agency implements (Sześciło, 2020). In the UK the principal driver of PPP/PFI was the HM Treasury Taskforce - Private Finance Policy Team, which was created in 1996 and issued several key PPP guidance documents between 1999 and 2000, thus performing many of the functions of national PPP units (NBS, 2020). Early fully-fledged agency-type PPP units include *Partnership Victoria* of Australia, which commenced operations in 1999 (Lemma, 2013). In the UK, *Partnerships UK* was launched in 2000 as a non-governmental agency with an arm's-length relationship with HM Treasury, operational independence, 51% private sector equity ownership and the remaining capital being provided by the public sector (PUK, 2009). Following a broadly similar format, *Partnership BC* (operating in the Canadian province of British Columbia; now *Infrastructure BC*) was created in 2002 as an arm's-length agency with links to the Ministry of Finance, while *Partnership Ontario* (now *Infrastructure Ontario*) was formed in 2005 (Lemma, 2013) as an "arm's-length crown corporation that reports to the Minister of Energy and Infrastructure" (Farrugia et al., 2008, p.10).

Although generally welcomed by industry, the combined operations of UK HM Treasury and *Partnership UK* were sometimes criticised for being overly bureaucratic and blamed for delaying PPP/PFI procurement (Asenova et al., 2002). Similar concerns were voiced about other agencies such as *Partnership British Columbia*, with research highlighting trade-offs between models which relied heavily on specialised cross-sectoral agencies or PPP units and approaches which focused on "developing the necessary expertise within the client or 'line departments' as a complement to existing traditional infrastructure programs" (Rachwalski and Ross, 2010, p.275). These problems had been largely unanticipated because the creation of agencies under New Public Management auspices had originally been expected to lead to debureaucratisation (Desai and Imrie, 1998). Researchers such as Rachwalski and Ross (2010, p.381), however, predicted that the "entrepreneurial" PPP unit model could be an "awkward fit for the more conservative culture and propensity for risk aversion ... of traditional bureaucracies", while the World Bank's Institute of Public Private Partnership (IPPP, 2009, p.16) suggested that "PPP practitioners have noted that elaborate systems that measure value for money risk [are] becoming overly bureaucratic and regulatory, and could stifle project preparation and deal flow".

While research on depoliticisation, agencification and potential re-bureaucratisation of PPP frequently borrows from a public policy literature which largely evolved within other areas of policymaking and implementation, the literature on PPP accountability is well developed and very PPP specific. Accountability in infrastructure procurement is associated with explaining and justifying behaviours, ensuring transparency and responsibility to stakeholders in terms of compliance, and adherence to standards and codes of

⁷ Central Unit | Public Private Partnership (ppp.gov.ie).

⁸ <https://ppp.worldbank.org/public-private-partnership/overview/international-ppp-units>.

conduct (Demirag and Khadaroo, 2008). Applying these ideas to PPP, the literature has drawn attention to how accountability, transparency and VFM are connected (Andon, 2012; Reeves, 2013). Demirag et al. (2005) in particular have provided a framework which links different types of accountability and VFM at the various stages of the PFI process. This theme was examined further by Demirag and Khadaroo (2011) in their investigation of how VFM is influenced by the forms and mechanisms of accountability cultures manifest in PPP projects (see also Andon, 2012). Questions of PPP accountability accordingly are complicated by the interplay of decision-making patterns with technical criteria such as VFM. VFM relates to longer-term financial characteristics of projects and their usage characteristics, which can make trade-offs surrounding project-related decisions more difficult to understand. Thus a project which offers additional functionality, such as a school with a swimming pool which can be used by the public, may be costly in terms of initial construction and operating costs, yet provide a VFM constellation which favours a PPP solution (Asenova and Beck, 2003). It is generally difficult, and may even be undesirable, to disentangle all these issues from each other, especially in the context of wide variations in terms of PPP governance (Stafford and Stapleton, 2021).

Meanwhile the general public policy literature highlights that, in a world where key decisions are made by agencies, questions arise about “‘who’ is to be accountable ‘for what’ and to ‘whom’” (Agyenim-Boateng et al., 2017, p.6). In such contexts, transparency can become an important component of public accountability (Abdel-Aziz, 2007; Li et al., 2005), with Fox (2007) arguing transparency is a prerequisite for accountability but does not necessarily guarantee that decision-makers are accountable. This view is shared by Welch (2012) who argues transparency is a prerequisite for political accountability as transparency provides stakeholders with essential knowledge about the processes of government (Welch, 2012) and ensures they understand the mechanisms underpinning defensible choices (Angluin and Scapens, 2000).

While there is broad agreement in the PPP literature about the general benefits of accountability and its basic characteristics, this is not necessarily the case as far as transparency is concerned. Problems regarding the transparency of PPPs have become recognised widely, as the policy has become widespread and the debate on the lack of transparency in PPPs has become more nuanced while being increasingly informed by empirical research (Reynaers and Grimmelikhuijsen, 2015). Systematic literature reviews suggest such transparency can be viewed in terms of outcomes or outputs (Grimmelikhuijsen and Welch, 2012), internal and external transparency (Reynaers and Grimmelikhuijsen, 2015) and as characteristic of governance systems and solutions to governance problems (Heald, 2012). Some research considers the direction of transparency, such as vertical or horizontal (Heald, 2012), the relationship between transparency and participation (Welch, 2012), or the availability of information for decision-makers in terms of ‘issues, participants, opinions, criteria’ (Brandsma and Meijer, 2020, p.4). Research also has investigated potentially negative effects of transparency on decision-making. Leino (2017) suggests that secrecy is often associated with efficiency, while transparency in the form of participation and openness can slow decision-making. This hypothesis has been disputed in Brandsma and Meijer’s (2020) research on EU law-making.

Matos-Castaño (2011, p.19) has argued that transparency in the PPP decision-making process should be underpinned by “predictability in decision-making”, with relevant information being readily available to all interested parties. Matos-Castaño et al. (2012) further emphasise the need for transparency in the choice of projects for PPP, while Jooste et al. (2009) suggest this should extend to decision-making processes which frame these choices. There is a consensus that initial PPP procurement negotiations should be conducted in a transparent way, as should the eventual awarding of projects (Abdel-Aziz, 2007; Li et al., 2005) to ensure fair competition, reduce criticism of the selection process and prevent accusations of political favouritism (Kumaraswamy and Zhang, 2001). Some authors recommend the public availability of all PPP contracts (Khadaroo, 2008; Boardman and Vining, 2012; Vining and Boardman, 2008). Jooste et al. (2009), moreover, suggest the public should be well informed regarding project details such as targets and performance indicators.

Obstacles to transparency can be aggravated by the tendency of new arm’s-length agencies to rebureaucratise. Such rebureaucratism can occur through the creation of new rule-sets created by newly-formed agencies in response to external challenges and demands for clear and predictable procedures and to internal efforts to regularise workloads and create routines (Bezès, 2017; Hodgson, 2004). While running counter to the intended small state logic of New Public Management-type initiatives, rebureaucratism has been observed in several contexts, including PPP procurement (Sheppard, 2019). A worst-case scenario arises when the PPP procurement process becomes so rebureaucratized that it is no longer sufficiently transparent to incentivise some bidders to participate (Akintoye et al., 2003). While such added complexity can sometimes be addressed through the employment of expert advice, this is likely to add to the cost of the bidding process (Demirag et al., 2012), and can contribute to the costs and risk of bidding being seen as prohibitive by some. A successful PPP programme requires a strong and vibrant market of providers to create competition and to contribute to quality work (UNECE, 2008). This dynamic is jeopardised if bidders are squeezed out of the market. While some policymakers, such as *Infrastructure Australia* have expressed concerns about these issues, potential countermeasures such as the sharing of bidding costs among bidders have been difficult to implement (KPMG, 2010).

Based on this brief review of an extensive literature, we propose a preliminary conceptual framework which highlights potential factors that might affect PPP transparency in agency dominated settings. The depoliticisation of PPP procurement, which often parallels the creation of an independent expert agency, can give rise to rebureaucratism, which those who find the PPP procurement process difficult might perceive as a lack of transparency. Where this then leads to greater demands for procedural transparency, processes associated with rebureaucratism can re-enforce themselves, such that calls for greater transparency result in a growth of bureaucratic rules and provisions. In parallel, the formalised nature of the competitive bidding process overseen by a PPP unit or expert agency can adversely affect the transparency of this process where concerns over litigation limit the amount of information released to the public and bidders. Lastly, while the insistence on commercial confidentiality can facilitate the bidding process from the perspective of bidders and is usually supported by PPP units, it can adversely affect democratic accountability in terms of the communication of PPP outcomes, benefits and costs to the public. Fig. 1a illustrates these potential interactions in the form of an initial conceptual framework, which we will re-examine in our discussion and conclusion sections.

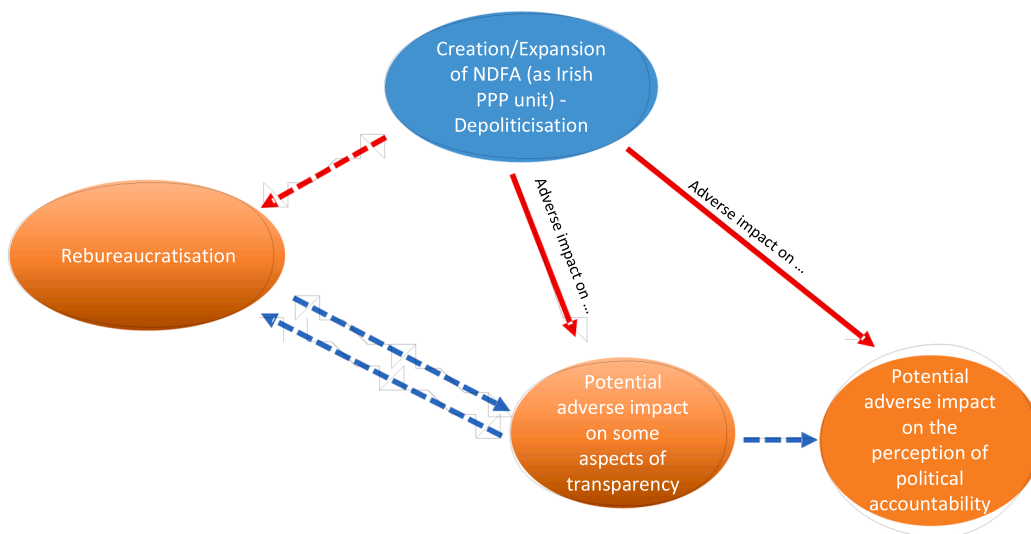


Fig. 1a. Initial Conceptual Framework (Factors Potentially Affecting PPP Transparency).

4. Methodology

We conducted interviews with senior Irish PPP practitioners between 2013 and 2017, with analyses of interview material and secondary data continuing into 2020. (This comprised three semi-structured pilot interviews conducted in 2013 which informed our larger study). The larger study included a further 23 semi-structured interviews which we conducted between 2016 and 2017 (one discounted for technical reasons). Interviewees included elite informants from the Irish public, private and civic sectors who led PPP projects across the education, transport, justice and health sectors. Interviews lasted between 60 and 90 min and took place at the informants’ offices. In this paper we quote from material provided by 17 of these interviewees and Table 1 gives general information regarding individual interviewees.

University ethical clearance procedures were followed, including informing all interviewees of the purpose of the project, the voluntary nature of their participation and the anonymisation of their responses.

Our research design was informed by Merriam’s (1998) case study approach, and qualitative information obtained from interviews was supplemented with secondary data, including government policy documents, academic and grey literature, as well as private company reports, statements and publications. The primary interview data were brought into the qualitative software package NVivo,

Table 1
Interview sample details.

Code	Position	Participant Type	PPP Sector	Interviewed
P2	Civil Servant	Public Sector	Justice	February 2016
P3	Civil Servant	Public Sector	Transport	February 2016
P4	Former NDFA executive	Public Sector	Public Procurement	February 2016
P5	Senior Planner	Public Sector	Education	February 2016
P7	Civil Servant	Public Sector	Justice	February 2016
P8	Senior Civil Servant and PPP decision-maker	Public Sector	Public Procurement	March 2016
P9	Senior Civil Servant	Public Sector	Environment	March 2016
P10	Senior Executive	Private Sector	Convention Centre	March 2016
P11	Financial Advisor to a consortia	Private Sector	Justice	April 2016
P12	Consortia member	Private Sector	Education	May 2016
P14	Project Finance Manager	Public Sector previously worked in PPP project finance in the Private Sector	Public Procurement	June 2016
P15	Senior Civil Servant	Public Sector	Justice	June 2016
P16	Project Manager in a mid-sized Irish construction company	Private Sector	Primary Care	July 2016
P18	Consortia bidder	Private Sector	Primary Care	August 2016
P19	Consortia bidder	Private Sector	Education, Justice and Primary Care	September 2016
P22	Public sector manager	Public Sector	Primary Care	December 2016
P24	Special Purpose Vehicle Manager	Private Sector	Education and Justice	January 2017

which allowed data to be organised and analysed systematically using a database. This added rigour to our data analysis and allowed data searches to be run along with the production of reports identifying relationships in the data. The data analysis further drew on [Braun and Clarke's \(2006\)](#) thematic approach, whereby findings from interview transcripts were triangulated with relevant government policy documents. Our interview analysis identified accountability, transparency and the NDFA as key themes at an early stage.

5. Analysis

This section discusses transparency of programme and project delivery within Irish PPP. We first explore whether PPP delivery in Ireland has been depoliticised, as predicted in much of the literature ([Willems and Van Dooren, 2016](#)). Apart from agencification, depoliticisation of PPP can involve governments turning to consultancy and advisory firms at the policy preparation, decision and operational phases, and seeking to delegate considerable decision power to these organisations ([Willems and Van Dooren, 2016](#)). Depoliticisation is also often associated with formal processes of high-level agencification, where an agency's role is expanded up to and beyond the boundaries associated with an advisory organisation entrusted with implementing policy.

[Willems and Van Dooren \(2016\)](#) argued that PPP in the UK created a shift of decision-making functions from politicians to consultancy and advisor firms. We found evidence of reliance on consultants early in the evolution of Irish PPP. This involved a key report on introducing PPP into Ireland commissioned by [Farrell Grant Sparks and Goodbody Economic Consultants \(1998\)](#). We would interpret the creation in 2002 of the NDFA as a quango within the NTMA as furthering agencification. With the gradual expansion of its remit, the NDFA can be considered a 'dedicated PPP unit' operating at a national level ([Burger, 2009](#), p.82). In line with [Sześciło's \(2020\)](#) notion of agencification, the NDFA's website describes the agency as "a provider of advice to State Authorities... [its] objective is to maximise value for money for the Exchequer in its provision of a centralised expert service to Government Departments... the NDFA is responsible for procuring projects within the parameters set out by the sponsoring department/agency". Key services provided to State authorities include 'financial advisory services, PPP and traditional project delivery and PPP contract administration',⁹ closely matching [Sześciło's \(2020\)](#) notion of an agency and agencification. Ministries remain responsible for policy formulation while the NDFA undertakes policy implementation.

Initially, our research suggested that depoliticisation of Irish PPP occurred primarily via a type of agencification because in theory the NDFA evaluates the likely success and market potential of a PPP project while final decision power continues to rest with the sponsoring departments. One public sector manager working on Primary Care projects stated that in theory "it's the Minister who decides whether or not the project proceeds or not as the case may be" (P22). This matched the 2012 statement by Sean Burgess, the NDFA Head of Project Management, that the organisation is not expected to decide how much of a project or how many projects should be procured through PPP ([Dáil Éireann, 2012](#)).

Our literature review suggested that depoliticisation can distance decision-making from politicians ([Burnham, 2001](#)). We found this to be so with the NDFA. Our interviews, however, suggested there is confusion about the role of the NDFA in PPP decision-making, related to its evolving role within Irish PPP policy. Decisions regarding whether to proceed with PPP involve preparing VFM tests which incorporate a PSB (public sector benchmark). The NDFA carries out these tests and can seek outside advice in doing so. During our interviews, some PPP participants expressed scepticism about the rigour of the NDFA's PSB calculations. One senior civil servant, who participated in the recent court-building PPPs, questioned "The PSB – is it real? The PSB is moved around by the NDFA to suit their purposes" (P15) and described the following interaction of this Justice department 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 ... now 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 ... 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, and they would say we've updated them and the level of complexity was different (P15)

That the NDFA made fundamental decisions on the suitability of projects for PPP and had considerable leeway in which considerations to adopt was confirmed by a public sector interviewee, who said the NDFA's verdict was that the building and refurbishment of Garda [Police] stations did not constitute projects suitable for PPP.

This pattern resonates with [Matos-Castaño \(2011\)](#) who noted that PPP units sometimes extend their remit from being an advisor to managing national or regional PPP procurement environments. We found that the NDFA, while maintaining a depoliticised image, has extended its roles beyond those outlined by [Matos-Castaño \(2011\)](#) in that it now takes on the role of advisor, information exchanger and PPP advocate. With the NDFA's involvement in virtually all Irish PPP projects, the dividing line between advice and policymaking is not always clear, if only because of the organisation's knowledge advantage compared with other PPP participants. One senior civil servant involved in PPP decision-making stated that "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).

In Ireland the NDFA acts as a PPP advisory unit, but individual government departments engaging in PPP procurement also employ PPP experts. While our research did not show movement of employees between government departments and the NDFA, there was movement between the NDFA and the private sector, with the NDFA recruiting from banks and other private sector organisations. Several interviewees confirmed that this trend partially reversed following the recovery of the financial services sector after the global

⁹ About the NDFA - National Development Finance Agency National Development Finance Agency.

financial crisis, with some public sector employees moving into the private sector. While one private sector interviewee commented positively that this would bring improved understanding of different approaches, a former private sector interviewee now working as a project finance manager in public procurement was critical: "... 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). This again indicates unease with the derivation of the PSB (public sector benchmark) as single monetary value which cannot always take into account the likely full cost of a PPP in terms of income and risks in a manner that ensures a like-for-like comparison with traditional procurement (Department of Education, 2018).

Some of these broader concerns with the objectivity of NDFA judgements relate to fundamental questions about the NDFA's mission. Previous research (Argyriades, 2001; Rachwalski and Ross, 2010) has suggested there is a danger that depoliticised agencies, including PPP units such as the NDFA, develop a bias in favour of certain policies because they have developed expertise and they sometimes identify with their clients' concerns. Several interviewees raised this issue in connection with the NDFA. A senior civil servant working on Justice projects stated "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 ..." (P15) and if they want PPP for something they "don't care how they get it" (P15). Another civil servant working on Justice projects suggested the NDFA was engaging in proactive policy interventions:

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

Overall, we find evidence that the NDFA is the primary vehicle for creating a seemingly depoliticised national PPP procurement system in which that organisation acts as a central policy network broker and facilitator. Within this system, the NDFA's function has expanded from advisor and information exchanger to scouting for potential PPP opportunities for which it most likely advocates. Although this deviates from the agency's mission, it is both in its own interest and seems goal-compatible with the interests of governments that view PPP as a useful means for the off-balance-sheet financing of infrastructure. However, the NDFA does not support PPP in all instances, e.g. the refurbishment of Garda [police] Stations through PPP was not supported, presumably because these projects were not of sufficient capital value for PPP procurement.

PPP units have been criticised for possibly contributing to institutional depoliticisation (Flinders and Buller, 2006), which may be problematic where the accountability frameworks and transparency within political systems are lacking once these agencies are removed from direct government oversight (Bressanelli et al., 2020). While arguably the NDFA's increasingly influential role in Irish PPP decision-making may have been to some degree inevitable, this makes it all the more important for PPP processes to be transparent. At a simple, practical level this transparency should ideally extend to:

- Transparency regarding the PSB (Public Sector Benchmark) and the decision to pursue PPP
- Transparency in the bidding process
- Transparency of bureaucratic processes associated with procurement
- Transparency in publishing PPP contract information
- Transparency in PPP reviews and benchmarking exercises

We discuss these issues in the following sections.

5.1. Transparency regarding the PSB (Public Sector Benchmark) and the decision to pursue PPP

Matos-Castaño (2011), Matos-Castaño et al. (2012) and Jooste et al. (2009) all call for transparency early in PPP decision-making, particularly in the choice of projects for PPP. Our analysis found a lack of transparency regarding the PSB and the decision to pursue PPP in Ireland. The choice between PPP or traditional procurement is the basic first step in the formal PPP journey. For it to be guided by clear criteria is important for private and public PPP participants and public sector clients and users, because this identifies ranges of acceptable margins of return and shapes future expectations of market participants and procurers. Depending on the nature of the project and prior experience in the area, an initial decision in favour of PPP can be a complex decision. For a PPP unit, this can involve several interrelated considerations, such as the likely ability of a bidder to deliver a project to the satisfaction of multiple stakeholders.

The role of accounting calculations conducted by the NDFA, especially those related to the PSB as initial decision criterion for pursuing PPP, was questioned by several private and public sector interviewees. A private sector PPP consultant spoke of clever accounting where figures in the PSB are moved around to favour PPP, in an exercise often carried out by financial advisors. This was corroborated by a senior civil servant, working on Justice projects, who questioned whether the PSB "is the public service benchmark that they claim" and stated that "I've seen them move the figures just to like, where do you want it" and when asked was told "it was appropriate to move it in ... on this occasion" (P15).

PPP participants working for procuring government departments stated they had little insight into the decision criteria employed by the NDFA in PSB calculations. One former private sector interviewee now working as a project finance manager in public procurement said:

Whether it goes PPP or goes traditional procurement in the first place is probably where there isn't any transparency ... 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)

Although some public sector representatives seemed unconcerned with their lack of understanding of the NDFA's criteria, others

saw this as a major problem. Any concerns centred on VFM testing, with several public sector interviewees questioning the lack of information available to them and the public. A Senior Planner on Education projects, stated “*there have been regular debates on [various] PPPs whether to publish more [on how this is calculated]*” (P5). Another civil servant working on Justice projects noted that “*... 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 ... but ...*” (P2). This view, and the idea these data could be made available later, was shared by a former NDFA executive, who stated VFM data should be made available by the NDFA “*once it's not commercially sensitive ... I mean they are not a secret, clandestine organisation*” (P4).

A Senior Planner on Education projects speculated that one possible reason for the lack of transparency at this stage was that some decisions involved complex considerations which could not easily be explained to the public. This interviewee noted such considerations also considered that, contractually, “*PPP guarantees the asset will be well maintained over the life of the project and ... the State does not maintain its assets*” (P5).

The publication of key data had been debated in parliament as far back as 2007 when a report noted that “commercial-in-confidence” clauses prevented the full disclosure of details such as the VFM comparison and the expected return on investment (Dáil Éireann, 2007, p.4). Aware of this, a senior civil servant working on Environment projects said the NDFA oversees VFM testing on behalf of the taxpayer but noted that transparency had to be limited because “*they're commercial documents and they're generally not available for scrutiny*” (P9).

Lack of transparency surrounding decision-making has also been a concern for the Irish Committee of Public Accounts. They asked for evidence that PPPs represent VFM and were told there was a PSB but were not shown it (Dáil Éireann, 2016). Accordingly, there is a conflict between transparency and commercial sensitivity, with the NDFA seeking to protect commercial sensitivity in the interests of the private sector. Some of our private sector interviewees questioned whether this level of confidentiality at the early decision stage of PPP was necessary, with one consortia bidder working on Primary Care projects, stating “*both the private sector and the public sector can do more to demonstrate the benefits [of PPP]*” (P18).

The Irish PPP Policy Framework is formally overseen by the Irish Department of Public Expenditure and Reform, a role previously undertaken by the Department of Finance. According to a civil servant working on Transport projects, “*the Department's... guidelines are that PSBs should not be released*” (P3). However, there appears to be a lack of consensus on this across different sections of the state. For example, a senior public sector interviewee acknowledged that the Comptroller and Auditor General [C&AG] advised that the PSB be published. This advice appears to have been followed by the Department of Education and Skills, which published its PSB for Schools Bundle 1 (signed 2009) and Schools Bundle 2 (signed 2010). However, it is unclear whether its figures captured the PSB, with one public sector manager working on Primary Care projects suggesting it is “*the unitary charge payment that they publish*” (P22). In any case the Department provides only a single figure not broken down into its various cost components. In an exception to the previous approach, the Department of Education is now giving a crude breakdown of the PSB into four broad categories, which while more informative, leaves questions about given cost categories such as risk costs.¹⁰

Some interviewees suggested the NDFA simply was not interested in encouraging widespread disclosure of data for fear this would delay projects. One civil servant working on Transport projects suggested:

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)

Problems with identifying risks, a key element of the PSB, were also seen as a reason for not being more transparent. One civil servant working on Transport projects said “*you can't quantify all risks*” and “*the market doesn't want that [information about risks] out there which was why they were not providing any detail of costings [for either] traditionally or PPP procured projects*” (P3).

5.2. Transparency in the bidding process

Abdel-Aziz (2007) and Li et al. (2005) state that PPP procurement negotiations and the awarding of contracts should be conducted in a transparent way. Our research found that the bidding process in PPP procurement in Ireland is considered fair and transparent with some mixed views regarding meetings with bidders. While the views of private and public sector interviewees on transparency regarding the PSB and initial PPP decisions partially overlapped, this was not the case with their views on bidding. Public sector interviewees generally were more concerned about potential litigation and supported transparency on bid evaluation criteria. Private sector interviewees expressed concern about the bidding process, feedback and the debriefing of unsuccessful bidders.

One project manager, who worked on a failed Primary Care project bid, noted that the NDFA was eager to demonstrate transparency in the bidding process to industry, which it did via “*a presentation when this was being promoted ... they were keen to make sure that the industry [knew] ... there was transparency*” (P16). As an interesting aside, this bidder competed for PPP projects despite the initial failure of one of their bids; a pattern which we observed for several interviewees and which seems to support the idea that bid processing by the NDFA is largely considered procedurally fair.

Another finance advisor to a consortia working on Justice projects, however, noted that:

[The NDFA] 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 ... there's a paranoia over here ... because there's such a small margin between winning and losing, [that] does lead to ... concern by bidders (P11)

¹⁰ gov.ie – Public Sector Benchmark for PPP Schools Bundles 1, 2, 3, 4 and 5 (<https://www.gov.ie>).

The interviewee went on to contrast the Irish situation with the US where there is transparency surrounding winning bids, which “losers love and the winners hate” (P11).

Internationally, transparency in the bidding process is complex. The United Nations Economic Commission for Europe recommends that bid information be kept secret as it could contain information that might benefit a competitor, particularly if procurement involves the protection of patents and copyrights (UNECE, 2008). Recommendations by this and similar international bodies nonetheless state that transparency surrounding the key aspects of the bidding process is useful, and our interviewees generally agreed this type of transparency was provided in the Irish context. One former private sector interviewee, now working as a project finance manager in public procurement, explicitly stated they felt the Irish bidding process was procedurally 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)

A project manager from a mid-sized Irish construction company which failed on a Primary Care project bid commented on the rule-based nature of decision-making and alluded to litigation:

I suppose it's [as] 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 ... (P16)

However, there were mixed views on transparency at meetings between bidders, the NDFA and procuring authorities, which were seen by some as formalistic without providing all the relevant information bidders were interested in. A consortia bidder who worked on a Primary Care project described how, at a formal meeting, a disclaimer was read out, and linked this to threats of litigation:

part of the litigious background that they're operating in, [means] 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)

This interviewee noted how the formal process can reduce openness “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” (P18). It was noted that there is transparency in terms of feedback and a private sector interviewee described how unsuccessful bidders are given feedback after the bid has been awarded. Feedback is given to bidders by letter, and a special purpose vehicle [SPV] manager working on Education and Justice projects noted:

it's very detailed. You either get a letter [that] 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)

The importance of transparency in feedback to unsuccessful bidders was emphasised by a former private sector interviewee, now working as a project finance manager in public procurement:

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)

A civil servant working on Transport projects, meanwhile, stated there was a difficult balance between providing useful feedback to unsuccessful bidders and providing too much information which could open 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 ... but you do say look you were more expensive in this area ... you were a lot more expensive ... it gives them a guide ... we give them the scores so they can see (P3)

One interviewee who worked as a PPP consultant in early Education projects noted that bidders are increasingly aware of award criteria and there are more challenges by bidders now than previously. This was confirmed by a civil servant working on Transport projects who highlighted the risk of giving too detailed a breakdown or being told they “weren't sufficiently clear” (P3). This interviewee saw litigation by unsuccessful bidders as a big threat because this could delay a project, which would be the worst-case outcome from a procurement perspective.

A 2015 High Court action taken by the Dutch construction firm BAM against the NTMA and the Minister for Education, the first of its kind, highlighted inconsistencies and a lack of transparency in the bidding process.¹¹ However, a consortia bidder working on Education, Justice and Primary Care projects was critical of the company's actions and stated:

¹¹ BAM PPP PGGM Infrastructure Cooperatie U.a v National Treasury and Finance Agency and Minister for Education and Skills, (2016), 2015 176JR & 2015 35COM.

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 keep in with the government and everybody else (P19)

An SPV Manager working for BAM on Education and Justice projects refused to comment on the High Court action and pointed to publicly available information. BAM's challenge to the awarding of the Grangegorman contract (one of the largest tertiary education PPPs in Europe) focused on the fact the winning bidder, Eriugena, did not submit its tender before the specified time. The High Court ruled in favour of the NTMA/NDFA, stating it had discretion to accept documents submitted after the tender deadline. The interviewees' asserted that the rules-based approach taken by the NDFA to protect the bidding process had been applied flexibly in this case while it still met legal requirements.

5.3. Transparency of bureaucratic processes associated with procurement

Arm's-length organisations, such as the NDFA, which were created to reduce direct state involvement in programme implementation, often experience rebureaucratisation when they manage and oversee tender processes (Brandsma and Meijer, 2020). This can come in the form of new rules and procedures (Bezes, 2017; Hodgson, 2004) as has been observed in a detailed study of Irish PPP procurement (Sheppard, 2019). Our research again confirmed this pattern, as several public sector interviewees working for client government departments described the NDFA as "overly process driven", "rigid" and "too bureaucratic". This related to both the procurement process, where the possibility of litigation justifies formality, and interactions between the NDFA, public sector clients and the private sector when projects are up and running, where it is perhaps less justified. One senior civil servant working on Justice projects stated, "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).

Although some of these views regarding process-focus were shared by private sector interviewees, one consortia member working on Education projects valued the NDFA's insistence on procedural compliance and praised its willingness to "issue a timeline ... [and] ... to stick to that" (P12). Research, however, has shown that such bureaucratic complexity can add to the cost of bidding, becoming prohibitive for some companies (Demirag et al., 2012). A vibrant market is essential to create competition (UNECE, 2008) and a lack of one can be detrimental to a PPP programme. Our research identified major concerns about bureaucratic requirements and processes imposed by the NDFA. This came from the representative of a mid-size construction company that had engaged in PPP bids. This project manager suggested the bureaucratic nature of Irish PPP procurement in its current form created disincentives to PPP involvement for this company:

it's going to cost me a fair bit of money, it's going to take you a long time, it's going to tie up those people for quite a long time and the job itself could take another year to get over the line with the finance, the government, the preferred bidder to financially close you know so there's a huge amount more steps and it's not attractive (P16)

This interviewee suggested that onerous procurement processes and contract conditions were crowding smaller players out of PPP procurement which now could only be done by "a big contractor with big resources" (P16).

A key problem implied in criticisms of NDFA bureaucracy by this private sector interviewee and by several public sector interviewees was that the rebureaucratisation of PPP procurement had reached a level where it adversely affected the transparency of PPP procurement and operations. In trying to be transparent, the NDFA had become more process-driven and rigid, resulting in rebureaucratisation. Potential private sector PPP participants and some government departments no longer felt confident they could reliably predict the timeframes involved in, and resources required for, completion of a PPP project, and therefore were reluctant to bid for PPP contracts. This problem also occurred in traditional procurement contexts, where it led to calls for measures aimed at encouraging resource pooling among smaller firms (Estache and Iimi, 2009).

5.4. Transparency and the publication of PPP contract information

Some researchers recommend the full availability of all PPP contracts (Khadaroo, 2008; Boardman and Vining, 2012; Vining and Boardman, 2008). Our research found this to be lacking in Ireland. In the US virtually all public contracts are openly accessible, which is not the case in Ireland. Our research found most public and private sector interviewees were generally opposed to the publication of PPP contract information for commercial sensitivity reasons. The Irish Department of Public Expenditure and Reform is the State's champion of freedom of information [FOI]. However, a senior executive working on a large PPP-based Convention Centre project pointed out FOI requests did not result in "commercially sensitive information being given out" (P10).

A private sector interviewee indicated there is a tendency for the private sector to withhold contract information. A consortia bidder working on Primary Care projects explained:

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 (P18)

From the perspective of one public sector interviewee, withholding such information was justified because doing otherwise could deter private companies from entering the market. Another interviewee, a Senior Planner on Education projects, said this was particularly relevant for those:

... in a pipeline of projects ... [because] for an under-bidder to see the details of the successful bidder's bid ... [would] give away competitive advantage ... you'd want to have quite a lapse of time ... for fairness to the bidders (P5)

Although this interviewee pointed to the possibility of publishing contract information sometime after the bid had been decided, this was also opposed by some public and private sector interviewees. A former NDFA executive said 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, with others agreeing this applied to both traditionally procured contracts and PPP projects.

While there was no consensus on the issue of delayed publication of contract details, several interviewees suggested how this transparency gap could be addressed. A consortia bidder working on Primary Care projects suggested "... 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). This would be informative because the asset built under PPP could be compared with the condition of a similar asset built under traditional procurement to assess VFM. Similarly, a former private sector interviewee now working as a project finance manager in public procurement suggested releasing information on older projects would be useful because "the principle of retrospectively reviewing them and sharing that information ... would make sense" (P14). Several interviewees agreed that releasing information on stage 1, which includes the pilot projects procured between 1999 and 2002, and stage 2 projects (procured pre-financial crisis between 2002 and 2008 and including most of Ireland's PPP), should be possible. As a project manager working on Primary Care projects observed "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).

5.5. Transparency in PPP reviews and benchmarking exercises

The PPP literature recommends that the public should be well informed regarding project details such as targets and performance indicators (Jooste et al., 2009). Commercial sensitivity, however, has repeatedly been cited as a reason for the scarcity of post-project reviews of PPP in Ireland (Dáil Éireann, 2012, p.26). Exceptionally, a VFM review was carried out by the Comptroller and Auditor General (Ireland) on the Pilot Schools Project (C&AG, 2004). Later reviews evaluated the Pilot PPP Schools Bundle (Department of Education, 2021), the Criminal Courts of Justice project (Mazars, 2012) and there was a review of ten PPP road projects (TII, 2018). The review of the Pilot Schools PPP project published in July 2021 (Department of Education, 2021) was overdue (year 19 of a 25-year operational period) and did not use a public sector comparator, despite one being prepared in 2001. Instead, it used a comparator sample of four schools projects procured using traditional means over the same period as the Pilot Schools Project, leading to a less than satisfactory analysis of the project (Palcic, 2021).

Transparency in the publication of post-project reviews is of concern to the public sector, and a senior civil servant involved in PPP decision-making suggested reviews of projects should be published but not contract details. This interviewee confirmed it was planned to carry out a review of schools projects which would examine the quality of buildings but not VFM in comparison with traditional procurement.

A Special Purpose Vehicle (SPV) manager working on Education and Justice projects discussed the potential difficulties of a post-project review of schools projects but was optimistic overall:

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)

This was echoed by a consortia bidder working on Primary Care projects who argued that Value For Money (VFM) should be demonstrated to the taxpayer and suggested Ireland follow the lead of Canada in this:

... 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. 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)

A public sector manager working on Primary Care projects spoke of previously undertaken post-project reviews and declared an intention to carry out such reviews in future, but signalled no intention to publish this material:

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)

Although this interviewee indicated that the department was taking an open-minded approach to post-project assessment of its PPPs, the interviewee noted they "... wouldn't traditionally publish post-project reviews ... they are very much internal things" (P22). Government departments may have carried out detailed PPP reviews, but the interviewee seemed to suggest they were not considered avenues for communicating relevant parts of that work to the public.

While the NDFA is not required to carry out such reviews, and its then Chief Executive Officer, Mr Brian Murphy, stated there were risks associated with releasing sensitive data which must be weighed against potential political advantages:

If the policy makers ultimately decide that this must be released, then it must be released, but it is important to understand there could be risks (Dáil Éireann, 2012)

The ongoing lack of published reviews adds to overall transparency problems with Irish PPP. It also means the NDFA's important role in PPP procurement is not matched by a similar position in terms of project evaluation.

6. Discussion

Recent research has found accountability in PPP procurement to be incomplete or partially evident (Abdullah and Khadaroo, 2020). Our research indicates PPP procurement in Ireland has become increasingly depoliticised, while a shift of control to the NDFA has tended to adversely affect some aspects of transparency at different stages of the procurement process. This is in line with Bresanelli et al. (2020) who stated that accountability mechanisms in political systems often offer greater transparency than those in arm's length government bodies. Our research suggested some depoliticisation of PPP in Ireland occurred via agencification, most notably the creation and expansion of the NDFA. The NDFA initially expanded its role as advisor to sponsoring departments and government members who were to make the final decision on projects. We found that the role of the NDFA evolved beyond initial agencification to the agency increasingly taking on advocacy and decision-making roles in PPP.

Prior research has indicated Irish PPP may be lacking in transparency (Reeves, 2013). Our research, by contrast, indicates the expanded role of the NDFA had a varied impact on different aspects of transparency of the PPP procurement process in Ireland, with levels of transparency ranking from weak to strong depending on which stage of the PPP procurement process and area of transparency is concerned (see Table 2). Specifically, we found transparency to be evident in the bidding process but saw a lack of transparency in the decision to go the PPP route, the publication of PPP contract information, and the publication of PPP reviews and benchmarking.

This suggests a nuanced picture in relation to our initial conceptual framework and some of the earlier literature in the field, on which this was based. The depoliticisation associated with the evolution of the NDFA as a PPP expert unit does not adversely affect transparency of the bidding process and might even strengthen it. Accordingly, a majority of interviewees felt that bidding process transparency was strong. In the Irish case, however, the rebureaucratisation that accompanied the expansion of the NDFA's remit within an increasingly litigious environment seems to have had a varied impact on different types of bidders. Among some larger private sector PPP participants, the increased bureaucratic burden associated with submitting a bid to the NDFA was seen as relatively manageable, especially as it was felt this helped clarify the PPP unit's expectations. By contrast, among medium-size and smaller bidders who had participated in PPP bids at a time when the bureaucratic burden associated with the bidding process was less noticeable, this was now seen as an obstacle. For them, the bureaucratic processes associated with PPP were no longer sufficiently transparent to warrant investment in a bid.

The question whether smaller bidders returned to bidding on more recent PPP projects has important public policy implications. This is, however, outside the realms of this research and would thus form an interesting future research project. A majority of interviewees felt transparency could be improved with regard to initial PPP decision-making, dissemination of contract information and publication of benchmarking exercises. Coming back to our initial conceptual framework as depicted in Fig. 1a, we would confirm most of the relationships depicted but would need to add some refinements. The dotted arrow from the "Creation of the NDFA as depoliticised PPP unit" to "Rebureaucratisation" would stay, but the impact of "Rebureaucratisation" would perhaps need to be depicted as being significant and having an adverse impact on smaller and medium-size bidders only, for whom "Rebureaucratisation" would create a loss of transparency which in turn could result in a potential exit from the PPP market. This is depicted in our revised conceptual framework in Fig. 1b.

The proposed effect of the "Creation/ expansion of the NDFA as depoliticised PPP unit" on "Potential adverse impact on some aspects of transparency" can now be refined and can instead be replaced by two relationships which go in opposite directions (see Fig. 1b). One of the relationships would describe a positive effect of the NDFA on procedural transparency or the transparency of the bidding process. A second relationship would describe a negative relationship between "NDFA Creation/expansion" and "Perceptions of political accountability", which itself would need to be divided into the two components of a) Initial decision to pursue PPP and b) Dissemination of contract information on past PPP contracts, together with "Dissemination/collection of post-completion evaluations".

Previous research has suggested that, generally, the creation of depoliticised arm's-length government agencies can adversely affect political accountability (van Thiel, 2004; Flinders and Skelcher 2012). Despite mixed findings regarding levels of transparency across various areas and stages of PPP procurement, we find this to apply only partially to the Irish context. Overall, levels of transparency of the PPP bidding process are seen as strong. In terms of policy practise, however, there may be a need to reduce the bureaucratic burden of bid submission for local small and mid-size construction firms, whose participation in bids and PPP projects can be important in garnering community support and thus ensuring support for PPP as a policy. Similarly, there is a likely need to address dissatisfaction with the transparency of initial technical decision criteria such as the PSB and of dissemination of information on past PPPs, including where VFM reviews are concerned.

7. Conclusion

Ireland now has over 20 years' experience with PPP procurement and operation, and the country's PPP unit, the NDFA, represents a mature set-up in terms of PPP procurement. The financial pressures resulting from the Covid-19 pandemic are likely to increase PPP use in Ireland and many other countries. The analysis presented here points to areas where the Irish agency-centred PPP procurement system can be improved, in line with the issues highlighted in the conceptual framework (Fig. 1b). While improving transparency and reducing the bureaucratic burden created by the NDFA can enhance the long-term sustainability of this policy, other factors must be addressed. Many fall outside the issues investigated in this paper, including improving stakeholder engagement (Sheppard and Beck,

Table 2
Summary of PPP transparency findings.

	Weak	Mixed	Strong
Transparency regarding the PSB and the decision to pursue PPP	Confusion over calculation of PSB, role of the NDFA in VFM testing and PPP decision-making; compounded by requirement for commercial sensitivity		
Transparency in the bidding process			Some mixed views on transparency at meetings with bidders, the NDFA and procuring authorities. General consensus that the bidding process is fair and transparent in feedback to bidders. High Court action by BAM highlighted issues, but interviewees question this
Transparency of bureaucratic processes associated with procurement		NDFA seen as bureaucratic. Some view this as strengthening transparency; others think it is adversely affecting transparency and creating impediments for smaller bidders to enter PPP market	
Transparency and the publication of PPP contract information	Public and private sector opposition to the publication of PPP contract information on the grounds of commercial sensitivity makes changes in this area unlikely.		
Transparency in PPP reviews and benchmarking exercises	Scarcity of published post-project reviews apart from one VFM review on the Pilot Schools Project, a review of the Criminal Courts of Justice project and a review of ten road PPP projects		

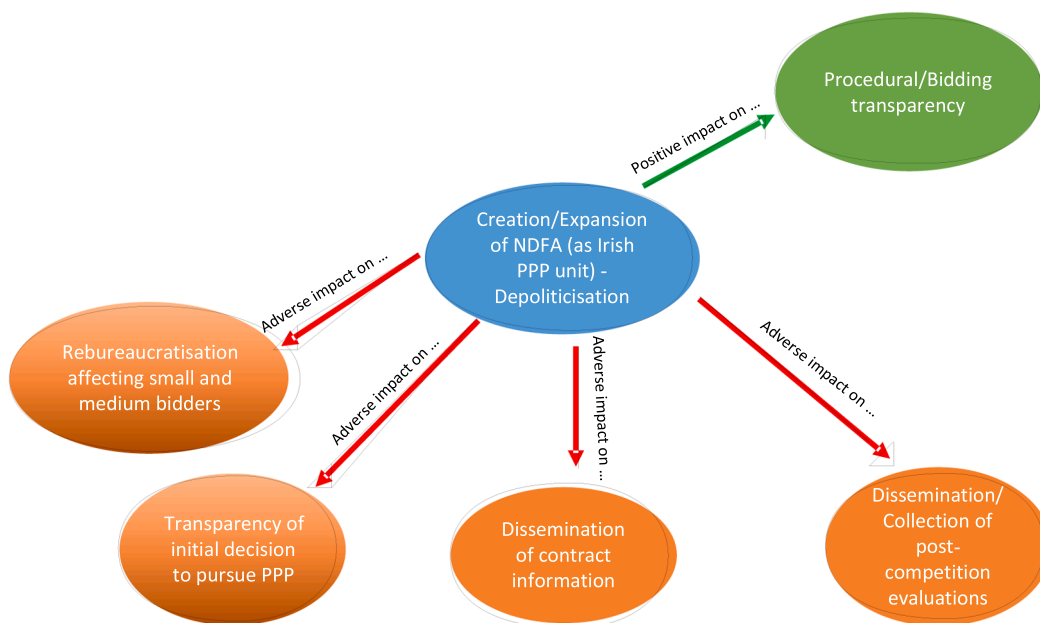


Fig. 1b. Revised Conceptual Framework (Factors Potentially Affecting PPP Transparency).

2020), the ability to resort to resolution and arbitration (Matos-Castaño, 2011) and independent oversight of performance monitoring, the results of which should be published to improve future projects (Verhoest et al., 2013).

The NDFA was created to streamline management of PPP procurement and prevent the politicisation of infrastructure procurement processes more generally (depoliticisation). The creation and expansion of the NDFA was also meant to address potential inefficiencies and reduce red tape (debureaucratisation). Overall, we would conclude that the evolution of the NDFA as a PPP unit in Ireland has brought benefits that are valued by larger well-established bidding consortia, but these have come at the cost of excluding smaller bidders and an increased reluctance to disseminate contract information and data from benchmarking exercises, driven largely by fear

of litigation. These problems may have been aggravated by contextual issues such as Ireland's small PPP market, where a small number of large companies can easily achieve dominant positions, and a competitive electoral process, where multi-seat constituencies often require politicians to attract local votes from across the board (McGraw, 2012).

Based on the revised conceptual framework presented in Fig. 1b, we conclude that depoliticisation and agencification can result in reduced transparency in some areas while generating a type of rebureaucratisation, whereby processes become so complex and unwieldy as to be opaque for some bidders, possibly creating the worst of all worlds: an unaccountable agency that is bureaucratic and opaque. Government Departments and their directly answerable agencies should be publicly and politically accountable, even if bureaucracy is focused on preventing litigation to ensure the smooth running of processes. An arm's-length agency, such as the NDFA, may shift away from political accountability, but it does not have to be bureaucratic and opaque for those interacting with it. The NDFA's fees and expenses are audited by the C&AG, but the auditor does not oversee procurement decisions and has not published performance-monitoring results for the NDFA (Sheppard and Beck, 2016). One obvious conclusion from our analysis is that the NDFA should be audited by the C&AG beyond just its fees and expenses and that it should be required to publish an annual report of its activities.

While our analysis points to trade-offs associated with the PPP unit model, the existing transparency deficits of Irish PPP are neither unavoidable nor irreversible. Suggestions by our interviewees, such as the timely publication of user surveys and post-project reviews, could help compare the characteristics of different PPP projects and allow for comparisons with conventionally procured infrastructure. Requirements to provide this could be enforced by the NDFA's oversight/steering agency, the high level high level Steering Committee within the Department of Public Expenditure and Reform [DPER] which oversees progress on the national PPP programme. Other countries offer valuable insights on how decision-making around PPP can be strengthened. Nederhand and Klijn (2019) document how the trustful relationships between actors in the wider environment of Dutch PPPs helped enhance the inclusion of societal parties, while Warsen et al. (2018) highlight the close link between trust and management both for PPP performance and cooperation. This indicates that the early inclusion of relevant representatives of societal groups in the PPP procurement process would benefit projects, while at the other end, a litigious environment would most likely adversely impact on the interaction of PPP participants. This is confirmed by a recent detailed literature review (Carbonara and Pellegrino, 2018) which highlights the importance of effective and intensive communication among different parties, the need for a fair allocation of risk and rewards (Zou et al., 2014), and the adoption of effective conflict resolution techniques centred on joint problem solving (perhaps based on an ombudsman or adjudicator model). Again, an oversight agency could encourage the NDFA to adopt such practices and supervise their implementation.

Ireland's Committee of Transport and Communications recently discussed Reform of the Public Works Contracts mechanism in Ireland, highlighting the impact of inflation on contract costs, the allocation of risk and the knock-on effect for contractors. The Chief Executive of Transport Infrastructure Ireland [TII], Mr Peter Walsh, commented that "a partnership approach to the delivery of a project is by far the best way of doing so" (Dáil Éireann, 2022a). He was not commenting specifically on a PPP approach but rather an approach where there is a high level of engagement with the contracting community. He gave an example of where such a partnership approach, the New Engineering Contract [NEC] generated a high level of tenderers compared with when the project had to be put to market again for various reasons under a Public Works Contract, when only two tenders were submitted. While it is beyond this research to compare the Public Works Contracts approach to infrastructure procurement with the PPP approach, considering the changing landscape of traditional procurement in Ireland and the potential use of alternative procurement such as the NEC and the Federation Internationale des Ingenieurs-Conseil (FIDIC) suite of contracts, such an analysis would provide an interesting insight into procurement practices and the long-term sustainability and use of PPP.

Encouraging new players will increase competition and contribute to improved VFM in the procurement process. Infrastructure Ontario has taken steps to balance transparency with commercial confidentiality, including a market update which highlights future projects as well as the publication of an externally authored track record report that evaluates large projects (Infrastructure Ontario, 2020). The Irish government has looked to Canada and Australia as exemplars of PPP transparency. The Irish Committee of Public Accounts report in 2007 recommended that, in line with British Columbia, Canada, contracts should be disclosed in their entirety after an appropriate period and three months after competition (Dáil Éireann, 2007). Infrastructure BC currently publishes project agreements, schedules of design, payments and funding agreements along with a redacted project agreement. The project procurement process is overseen by an appointed Fairness Advisor to ensure the process is carried out fairly and transparently.¹² This level of detail is not available in Ireland.

Brinkerhoff and Brinkerhoff (2011) discuss transparency and accountability as constituents of good governance in PPP. Our analysis has shown that PPP in Ireland falls short on some aspects transparency and accountability, yet Ireland has continued with a PPP programme when its closest neighbour, the UK, has cancelled its PFI programme. Overall there is no reason to expect that detrimental losses of transparency are inevitable where strong PPP units or expert groups operate. In fact, one of our main findings is that the agency model delivers in those areas on which it focuses most, namely, the procedural management of the bidding process. We suggest, therefore, that the operation of such units requires special attention to be paid to the public face of PPP procurement, especially the transparency and accountability of initial decision-making, the encouragement of smaller bidders, and the collection and dissemination of user-relevant, post-completion information to the public.

¹² Projects - Infrastructure BC.

Declaration of Competing Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

Data availability

The data that has been used is confidential.

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