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An Examination of Policy Change over time in Certain Sectors of the Irish Political System

A thesis submitted to University of Dublin, Trinity College

for the degree of Doctor of Philosophy

Stephen Weir – B.A. Mod. (Hons.), M.Econ.Sc.

Stephen Weir

21 October 2015
This work is dedicated to the memory of my father Leo and to the happy and healthy lives of my mother Phyl, my wife Jane, and our daughter Anna
DECLARATION

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

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Summary

This thesis seeks to explain variation in policy outcomes in particular sectors of the Irish political system. The sectors investigated for this research display evidence of significant interest group activity around policy decisions whose key goal involves a “private good” type policy aim. There is currently only a small amount of research in this area relating to the Irish political system. (See Murphy (2010) for survey). Over the initial stage of this research, the question *What explains variation in policy outcomes over time in particular sectors of the Irish Political System?* emerged as the general research question. As I was trying to understand the causes of policy change in a political system where little prior research had been conducted before, I concluded that the case study methodology would provide the most flexible and holistic means of investigation and allow the development of a suitable theoretical basis.

My interest in this area arose in conjunction with my undergraduate study of economics. I was interested why politicians failed to implement policies that from an economic theory perspective seemed obvious. A prime example during my college years of this phenomenon was taxi policy in Ireland. It appeared that a small group, with the help of some politicians, were able to control policy for their own ends. Consequently, as this was the type of behaviour, I was trying to explain, I adopted it as the pilot case study. I also learned from the pilot case study that there were key factors in the broader political system that had an impact on policy change. In order to broaden the analysis and deepen our understanding of the area, I chose a second case study that examines the development of medical consultant employment conditions in Ireland. I chose it because it appeared to gain its influence from a very different basis than the taxi drivers.

I researched the literature in conjunction with the pilot case study. It became apparent that the theories that were most relevant to the research answered different but related questions concerning policy change. Punctuated Equilibrium Theory examined a pattern of policy change rather than policy change itself, while Advocacy Coalition Theory examined policy change emanating from within expert policy subsystems. This research
uses aspects of both theories to capture the broad drivers of policy change as comprehensively as possible within the limitations of this research. ACT pointed to the influence of different actors as the variable that could best explain policy change within the narrow arena that was evident in the pilot case study whilst PET identified a broader "macropolitical" arena as a key location of policy change, where the general view of the public and alternate venues of policy decision were important factors. This led to the conceptualization of three specific research questions that as a whole comprehensively answered the general research question: (1) Do changes in policy image explain variation in policy outcome over time; (2) Do changes in venue explain variation in policy outcome over time; and (3) Do differences in influence explain variation in policy outcome over time.

In order to answer these questions, I collected documentary data from the national archives, newspapers, official reports, parliamentary debates, books etc. I also conducted interviews to gather information on the case studies and to assess influence. I conducted a content analysis on parliamentary debates and newspapers articles in order to answer specific question 1 and I examined the used the process tracing and attributed influence methods in order to answer specific research question 3. The identification of venue change required to answer specific research question 2 was done through an analysis of the collected data.

The main contributions of this research are the development of a bespoke theory of the policy process that comprehensively deals with both subsystem and macropolitical arenas of policy determination in liberal democracies. Secondly, the nature of the influence variable required that I develop broader and deeper methods of capturing all the complex elements of influence in policy determination. Thirdly, this research shows that theory in relation to venue change variable is more complex than had been previously understood and identifies the role of influence in determining venue change. The final contribution of this research increases our understanding of how policy is determined in the Irish political system.
Acknowledgements

Like Dante in *La Comedia*, in midlife, at the start of my PhD studies, I found myself in a “forest dark” with much worry and confusion. Like all PhD students, I have travelled through many difficult and challenging terrains but like Dante I have met both, in person and through the medium of research many enlightening souls. I have immensely enjoyed my PhD journey. I am truly privileged to have been able to spend so much time engaging in an activity that is so rewarding. I humbly wish that my research adds to human understanding, and that in some small way leads to better policy and ultimately an improvement in the welfare of people.

A journey like this requires the forbearance of many. I wish to sincerely thank all those who have helped me reach this stage of my PhD. Foremost in my mind, is my dedicated and hugely supportive wife, Jane and our wonderful daughter Anna. They have both borne the many evenings and weekends where I was locked away in the study, with enormous understanding. I thank them for their encouragement and support through the difficult times. Jane must also be thanked for her help with coding and the bibliography.

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I have spent several years squeezing my PhD research into a busy professional and family life. As you can see from the above, I would like to thank all those who helped me along the way. If I have missed anyone that I should have thanked, I sincerely apologise for the omission.

Stephen Weir
October 2015
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<td>ACI</td>
<td>Actor-Centered Institutionalism (Framework)</td>
</tr>
<tr>
<td>ACT/F</td>
<td>Advocacy Coalition Theory/Framework</td>
</tr>
<tr>
<td>A&amp;E</td>
<td>Accident and Emergency (Hospital Department)</td>
</tr>
<tr>
<td>DCU</td>
<td>Dublin City University</td>
</tr>
<tr>
<td>DLR</td>
<td>Dun Laoghaire-Rathdown (Council)</td>
</tr>
<tr>
<td>ECPR</td>
<td>European Consortium for Political Research</td>
</tr>
<tr>
<td>FF</td>
<td>Fianna Fáil (Political Party)</td>
</tr>
<tr>
<td>FG</td>
<td>Fine Gael (Political Party)</td>
</tr>
<tr>
<td>HSE</td>
<td>Health Service Executive</td>
</tr>
<tr>
<td>IAD</td>
<td>Institutional Analysis and Design (Framework)</td>
</tr>
<tr>
<td>IOP</td>
<td>Interaction-Oriented Policy (Research)</td>
</tr>
<tr>
<td>IHCA</td>
<td>Irish Hospital Consultants Association</td>
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<tr>
<td>IMA</td>
<td>Irish Medical Association</td>
</tr>
<tr>
<td>IMO</td>
<td>Irish Medical Organisation</td>
</tr>
<tr>
<td>IMU</td>
<td>(Irish) Medical Union</td>
</tr>
<tr>
<td>INO</td>
<td>Irish Nurses Union</td>
</tr>
<tr>
<td>IT(D)F</td>
<td>Irish Taxi (Drivers’) Federation</td>
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<tr>
<td>MPGWU</td>
<td>Marine Port and General Workers’ Union</td>
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<tr>
<td>NCHD</td>
<td>Non-Consultant Hospital Doctor</td>
</tr>
<tr>
<td>NTDU</td>
<td>National Taxi Drivers’ Union</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Governmental Organisation</td>
</tr>
<tr>
<td>OED</td>
<td>Oxford English Dictionary</td>
</tr>
<tr>
<td>PD</td>
<td>Progressive Democrat (Political Party)</td>
</tr>
<tr>
<td>PESP</td>
<td>Programme for Economic and Social Progress</td>
</tr>
<tr>
<td>PET</td>
<td>Punctuated Equilibrium Theory</td>
</tr>
<tr>
<td>RDS</td>
<td>Royal Dublin Society</td>
</tr>
<tr>
<td>TD</td>
<td>Teachta Dála (Member of the Lower house of the Irish Parliament)</td>
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<td>UCD</td>
<td>University College Dublin</td>
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VHI  Voluntary Health Insurance
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Chapter 1

Introduction

Salus populi suprema est lex - Cicero
(The welfare of the people is the supreme law)

1.1 Introduction

The goal of this thesis is to investigate the variation in policy outcomes in particular sectors of the Irish political and economic system. The sectors I investigate were chosen because they display evidence of significant involvement in policy determination by interest groups seeking a "private good" as their key policy aim.

There is currently very little research in this area of the Irish political system (see Murphy (2010) for survey). For that reason, the research is descriptive, exploratory and explanatory. It uses case study analysis in order to understand the mechanisms that cause policy to change and to gain an in-depth understanding of different aspects of policy change in the Irish political system. The case studies chosen examine the evolution of both taxi licensing policy and hospital consultant employment conditions in Ireland. I chose a comparative case study methodology in order to be better able to identify and understand any differences in outcomes arising from each case study.

In this chapter, I will give a brief outline of each case study in order to give the reader a general background to the subject area. I will then set-out the path that this research has taken. The theoretical background to the research is subsequently briefly set out and I introduce the research design and methodology. The chapter then concludes with the delineation of the broad research area and a general research question.

\[ ^1 \text{Cicero: De Legibus III, iii 8} \]
1.2 A Tale of Two Sectors

1.2.1 Taxi Licensing Policy

The regulation of the taxi market would seem, on the face of it, to be a relatively innocuous and simple affair for a government to deal with. In Ireland, during the 1990’s the regulation of this industry caused controversy in each year of the decade. Many newspaper column inches and talk-radio hours were devoted to discussing it; streets were blockaded on several occasions by protesting taxi drivers; numerous hours were spent by politicians and public servants trying to negotiate a solution; it became a regular topic of “water cooler” or “dinner party” conversation amongst ordinary people; the public, after a night out, either queued for hours for a taxi or in frustration walked home and while trying to reform the area, a Government Minister was issued with a death threat.

The regulation of the taxi industry in the 1990’s, was dominated by one issue - the retention of a de facto moratorium on the issuance of new taxi licences. In 1978, the taxi drivers of Dublin and Cork successfully persuaded the then Minister for Local Government, Sylvester Barrett to change the manner in which licences was issued. The most public form of this persuasion was a strike and blockade of Butt Bridge (and the offices of the Department of Local Government at the Customs House) in the centre of Dublin in late August 1978. The Irish Times on 28 August stated “The strike is the culmination of a long battle by the Irish Taxi Federation for strict limits on the numbers of licence plates issued.” The drivers had been campaigning for over a decade to achieve this aim. As a result of this policy change, apart from a small number in 1979, no further licences were issued until 1992. These new licences were issued in response to recommendations of an “Inter-Departmental” committee, set up by Government in response to the shortage of taxis. The issuance of licences unleashed a storm of protest from the taxi drivers, who proceeded to blockade the Capital and subsequently the hometown of the Minister.
The continuous growth of the Irish economy during the 1990’s guaranteed that the problem didn’t go away. It ensured that the limit on taxi licences became ever more evident as each year passed. People queued for hours or walked home. The government response was meek. Licences increased sporadically and incrementally during the remainder of the decade. In 2000, following the intervention of the minor government coalition partner, the government moved on the issue and came up with a compromise that saw the existing taxi licencees being granted extra licences. However, the High Court ruled in October that year, that the Minister was acting *ultra vires* in granting the existing drivers extra licences. As a result of this ruling, the government effectively deregulated the taxi market. The flood gates opened. By 2002 the number of licences had increased by 216% from 2,722 to 8,609. In the aftermath of the High Court ruling, a “statutorily independent” national taxi regulator was established.

1.2.2 The Hospital Consultants’ “Common” Contract

In an interview, after the release of the report of the *Commission on Financial Management and Control Systems in the Health Service*, the Chairman of the Commission, Professor Niamh Brennan stated that she “could not believe that such a contract of employment could exist”\(^2\). She was referring to the contract of employment of senior medical doctors (commonly known as “consultants”) in the Irish health system.

The report was part of a cluster of reports commissioned by government, in the late 1990’s and the early years of the new millennium, to enquire into the seemingly intractable problems of the Irish health system that had dogged it for some time. Initially, the source of the problem was generally identified as a lack of funding in the health system. However, with the economy booming, funding had increased exponentially yet, the problems remained. Increasingly, the focus came to rest on the pay and working conditions of the medical consultants.

\(^2\) Irish Times 19 June 2003
In a previous report commissioned by Government in 1967, a group of hospital consultants were asked to give an expert view on the “extent and location” of hospital services in Ireland. They produced the report but also used it as an opportunity to state that they believed, they were poorly paid and that their terms of employment, which historically depended on the type of hospital they worked in, should be standardized. The means of achieving standardization was to occur under a “common contract” of employment. It subsequently became the issue to dominate relations between Government and the medical profession for the next forty years.

Negotiation started on the contract and various working groups and committees were set up. The contract became a source of contention over a number of years. In August 1973, the Minister for Health and leader of the Labour party Brendan Corish announced that free hospital services would in future be available to the whole population. The medical consultants ultimately vetoed this policy; they were concerned that the provision of free services would curtail their independence and private fee income. The consultants threatened strike action. In response, the Government withdrew the scheme.

In 1979, Charles Haughey became Taoiseach. Haughey had been opposition spokesman for health and subsequently Health Minister after the general election in 1978. Haughey and his successor Micheal Woods essentially allowed the Consultants to write their own contract and it became operative in April 1981. The Consultants effectively could do what they wanted, in return for a large public salary, free use of public facilities, and unlimited ability to engage in private practice.

“The Commission on Health Funding” (1989) recommended a renegotiation of the consultants’ contract. In 1991, a new contract was negotiated by the then Minister for Health Dr. Rory O’Hanlon, that appeared to deal with the issues, but little changed. Negotiations started again in 1996 under the tenureship of Michael Noonan as Minister for Health. These negotiations stalled as the general election approached and a new contract was agreed in 1997, early in the lifetime of the new Government. Again, the
contract failed to effectively tackle the problem areas and as Wren (2004; 103) states "the contract was a victory for the IHCA and like its predecessors would soon provoke critical review."

In January 2000, Micheal Martin became the Minister for Health. A new Government Health Strategy "Quality and Fairness – A Health System for you" was published in December 2001. It listed as one of its recommendations, that a new consultants’ contract be negotiated and consultants should be appointed on a public practice only basis. Further reports in this period were published, all of which recommended the negotiation of a new contract. In October 2003, Micheal Martin sought talks on the contract however they were delayed due to wrangling about side issues. They eventually began but were dogged by disagreement. This pattern of negotiation stalemate continued until a revised contract was finally agreed in March 2008. However, again little has changed.

1.3 Research Background – The Statement of the General Research Question

My interest in this area arose in conjunction with my undergraduate study of economics. I was interested as to why politicians failed to implement policies that from an economic theory perspective seemed obvious.

Central to the study of economics, - “the allocation of scare resources to satisfy wants and needs” is, “the market” - its advantages and disadvantages. As a means to allocate scarce resources to satisfy wants and needs, the subject of economics teaches that (when certain assumptions are met) “the market” is efficient and that changes in information are reflected in movements of price and quantity which bring about a new equilibrium. The relative speed and ease of the adjustment of the market is one of its key advantages.

But how does one of the other main mechanisms of allocating scarce resources - government policy - fare in the speed, distribution, and efficiency of allocating resources?
Whilst studying markets and economic policy, I noticed that certain policies didn’t change, even though, from a policy advice perspective, a particular course of action appeared to be obvious. Politicians it appeared couldn’t or wouldn’t act to “maximize the welfare of society” even when it seemed obvious how to do so. Economic theory had identified “rent seeking” and “regulatory capture” as major obstacles to achieving a fair and efficient outcome for society. Policy in particular areas seemed to be captured or monopolized by certain interest groups. The economists’ only solution to the problem of rent-seeking and regulatory capture was to exhort politicians to stop doing what they were doing. The politicians largely ignored the economists. Why was this the case and why didn’t economists examine why their policy prescriptions were largely ignored?

It seemed to me, as an economist, that politicians didn’t change policy because it wasn’t in their interest to do so. Was this true? Democracy is predicated, at least on some level, that all citizens are equal before government. It appeared to me that different individuals or groups had greater power or influence over policy than others. Why did certain groups appear to get their way? If these groups were influential, how did they maintain their influence over policy over time? It seemed to me a worthwhile research project to examine why policy appeared to be made in the interest groups’ favour and what were the conditions under which policy was made (or not made) in their favour. This could then possibly point to institutional reforms that would better reflect a fairer and more efficient outcome for society.

A further element of my thinking was that because policy seemed to be captured by these “insiders”, the policy system didn’t have the ability to adapt quickly to new information (like a properly functioning market). As Nobel Laureate, John Hicks stated, “The best of all monopoly profits is the quiet life”; interest groups and policymakers seemed to agree. Policy within their control appeared to change minimally and as much in the interest groups favour as possible. The implication of this monopoly control of policy was that naturally occurring continuous changes in society that would normally be reflected in a properly working market, would not be reflected in the slower and discrete changes that
generally occurred in policymaking. It also implied that policy would generally change sporadically and reactively as according to the needs and views of the interest group. With this system of imperfect adjustment, policy pressures would build within the political system, with the problems of the extant policy attracting increasing attention in the wider society until a breaking point was reached and a dramatic change in policy erupted.

Having studied elements of economic policy in college, I was also aware that there was very little research on this area in the Irish political and economic system. A further issue was to source data for my research. The economics "interest group" literature that I was familiar with up to that point was largely theoretical. The elements of it that had engaged with empirical testing concentrated on the US political system and used quantitative data that was uniquely available due to the structure and reporting requirements of that political system. Similar data does not exist in the Irish political system.

As little work had been done in the Irish system, this meant that I had to examine the Irish system in detail and identify the necessary variables in order to construct a data set. The type of in-depth analysis that this required helped me to more clearly match my research aims to a research methodology. The methodology that stood head and shoulders above all others when assessed with regard to my research aims was the case study methodology. (See methodology chapter for further discussion)

In specifying the problem and research objective, we see that this research is fundamentally about policy change. More specifically, it seeks to understand policy change where a particular interest group places importance on a particular policy outcome. It also seeks to understand how the influence of the interest group changes over time and consequently the manner in which the policy changes, within a particular institutional structure. The research objective is to better understand the factors that bring about policy change. This allows me to state the primary research question.
What explains variations in policy outcomes over time in particular sectors of the Irish Political System?

Having specified the main research question, I now set out the research design.

1.4 Research Design

Having specified the general research question it was then necessary to decide the manner in which the research was to be conducted. As we can see from the research question, this inquiry aims to better understand the complex area of the policy system. It ultimately seeks to understand the process of how policy changes over time in certain sectors of the Irish political system.

Different research methods have different comparative advantages over one another. This indicates that the researcher should pick the research method that best coheres with the aims of the research. For example, statistical methods have a comparative advantage when the aim of the research is to discover if a change in one aspect of the social world varies in conjunction with another. The present research, as mentioned above seeks to understand the process of change in the social world over a long period of time. It is seeking to explain institutional causal mechanisms that bring about policy change. The research method that has the comparative advantage in explaining causal mechanisms is the case study method. Yin (2003; 12) quotes Schramm (1971)

The essence of a case study, the central tendency among all types of case study, is that it tries to illuminate a decision or set of decisions: why they were taken, how they were implemented and with what result.

In this research, I am attempting to explain a set of decisions over a period of time, to enlighten as to why particular decisions were made and to explain the dynamics that caused those decisions. Having chosen the case study it is time to move on, but George and Bennett (2004; 73) warn
The design phase of theory-oriented case study is of critical importance. If a research design proves inadequate, it will be difficult to achieve the research objectives of the study.

Being mindful of this warning, I read closely on research design. Punch (2006) develops a research design framework which he calls the “hierarchy of concepts”: It guides a nascent researcher from their broad subject area to the specific research question and further to the data needed to answer those questions. It helps clarify a researcher’s thinking on the exact nature of a research project. As a hierarchy, he states that the elements,

...vary systematically in levels of abstraction and generality, and that they need to be connected to each other logically...The top level is the most general and the most abstract. The bottom level is the most specific and the most concentrated.

This echoes Yin’s (2003; 20) view on research design where he states “the design is the logical sequence that connects the empirical data to a study’s initial research questions and ultimately to its conclusions”

The hierarchy is as follows;

- Research area;
- Research topic;
- General research questions
- Specific research questions
- Data collection questions

Explaining each level and moving from the top down; Punch (2006; 21) asserts that Research areas are usually stated in a few words and sometimes just one word. Topics similarly are a few words, but usually more than those describing the research area. The topic falls within the area. It is an aspect, or part, of the area – a step towards making the general area more specific.
The advantage of identifying a research area is that it enables the identification of the broadly relevant literature. Identifying the research topic within the research area allows the research to focus in on a precise area of that literature.

Moving down to the next two levels of the hierarchy, we examine the development of general and specific research questions. "General research questions are more general, more abstract, and (usually) are not themselves directly answerable because they are too general." Specific research questions are detailed and concrete which point directly at the data needed to answer them. "The general research question is answered indirectly by accumulating and integrating the answers to the corresponding specific research questions". Punch develops what he calls the "empirical criterion" in order to help distinguish between general and specific questions. "The idea of the empirical criterion for research questions is that a well-developed and well stated research question indicates what data will be necessary to answer it." The specific research question needs to be phrased at such a level of precision that it indicates the data to be collected so as to answer it. Specific research questions should be empirical questions. The question needs to point to the data that needs to be collected in order to answer it. In other words, the specific questions should be operationalized.

At the bottom of the "hierarchy of concepts" come the data collection questions. A data collection question as its name implies is a question, which is asked in order to collect data. This is done in order to help answer a research question. "In that sense, it is more specific still than the research question. In that sense too more than one data collection question, sometime several, sometimes many, will be involved in assembling the data necessary to answer one research question" Punch (2006; 24)

Yin (2004; 21) recommends a research design that he specifically developed for case studies. It complements the use of Punch's hierarchy. The Yin research design links the data to be collected and the conclusions to be drawn to the initial questions of the
research project. A research design according to Nachmias and Nachmias (1992; 77-78) can be seen as a plan that

...guides the investigator in the process of collecting, analyzing and interpreting observations. It is the *logical model of proof* that allows the researcher to draw inferences concerning causal relations among the variables under investigation. Quoted in, and emphasis added by, Yin (2004; 21))

The research design ensures that the case study builds a logical model of proof: that a logical explanation with operational connections, tied to theoretical propositions is constructed that allows theory to be tested and developed.

The components of a research design as set out by Yin (2004; 21)

1. a study’s questions;
2. its propositions, if any;
3. its unit(s) of analysis;
4. the logic linking the data to the propositions; and
5. the criteria for interpreting the findings

As we can see, the two frameworks set out above have slightly different emphasis. The highlighting of the “unit of analysis” in the Yin design reflects the importance of matching the choice of case to the research objectives. In the section that follows, I use Punch’s hierarchy to delineate the research questions. In Chapter 3, I draw on Yin’s research design in greater depth to choose the unit of analysis and to operationalize the questions.

1.4.1 Development of the General Research Question

Research Area and Topic
Considering the above hierarchy of concepts, the development of my interest and initial thoughts in this area, the “Research Area” can be described in two words as “Policy Change.”

Moving down the hierarchy, the “Research Topic” can be stated as “an examination of the variation in policy within specific domains of the Irish political system.” As discussed above, during my undergraduate studies, I noticed that politicians appeared to fail to act in a policy area, despite overwhelming policy advice for change, until a sufficient level of “pressure for change” had built up within the political system. The policy often appeared to be controlled by the interest groups directly affected by the policy. In order for the policy to change, it had to fail at a level that attracted the attention of the broader political system and then after some time the momentum for change would become unbearable and the policy would change dramatically.

As Punch recognizes, the delineation of the research area and topic allows for the identification of the body of literature centrally relevant to the research. My interest in this area led me to read a broad swathe of literature in the public choice, rent seeking, economic regulation, interest group, institutional rational choice, and policy process areas. The literature that ultimately was most relevant to my “research area” was the policy process literature and then more specifically, as I began to understand the topic on a broader level, the punctuated equilibrium theory (PET), the advocacy coalition theory (ACT) and consequently the “power and influence” literature.

**General Research Question**

Considering the above and moving further down the hierarchy the following general research questions came to the fore:

*What explains variations in policy outcomes over time in particular sectors of the Irish Political System?*
To answer the above question requires the answering of connected specific research questions and as George and Bennett (2004; 79) note the specification of variables. Each of the specific research questions deal with different aspects of the policy process. As Punch notes the use of the “Hierarchy” allows the identification of the relevant literature. After examining this literature in the next chapter I then use it to develop the specific research questions. I specify the specific research questions at the end of the Literature Review chapter.

1.5 Progress of thesis

As mentioned above, the next chapter discusses in detail the literature pertinent to this research. Chapter 3 sets out and justifies the methodology used in the research. It details the reasoning behind the choice of taxi licensing and the consultants’ contract as “units of analysis”. The following chapter details the institutional structure of the Irish political system. Chapter 5 examines the evolution of taxi licensing policy using the theoretical framework set out in chapter 2 and methodology in chapter 3. Chapter 6 similarly examines the evolution of policy in relation to the consultants’ contract. Chapter 7 discusses the case study findings while Chapter 8 outlines the contribution of this research to knowledge and draws conclusions.
Chapter 2

Literature Review

2.1 Introduction

One of the most important roles of democratic government "is the function of selecting and legitimizing public policies that use the powers of the collectivity for the achievement of goals and the resolution of problems that are beyond the reach of individuals acting on their own or through market exchanges" Scharpf (1997; 1). Sabatier (2007; 3) further elaborates, "In the process of policymaking, problems are conceptualized and brought to government for solution; government institutions formulate alternatives and select policy solutions; and those solutions get implemented, evaluated, and revised."

Several important questions naturally arise from this function of government; how is the conceptualization of the problem determined; who brings problems to the attention of government; who has influence with government; which problems are selected for action by government; why are certain policy solutions selected; how long does it take to change policy once a "problem" has been recognized; and what is the nature of the change in policy. Are policies selected on the basis of some objective standard; because they reflect the will of the people; or because a powerful individual or group demands a particular outcome?

Referring back to our discussion of setting research questions, we note Yin (2003; 9) states

Determining the questions that are most significant for a topic and gaining some precision in formulating these questions requires much preparation.
One way is to review the literature on the topic (Cooper, 1984). Note that such a literature review is therefore a means to an end and not – as many people have been taught to think – an end in itself. Novices may think that the purpose of a literature review is to determine the answers about what is known on a topic; in contrast, experienced investigators review previous research to develop sharper and more insightful questions about the topic.

In line with Yin’s advice, I survey in the forthcoming pages, a broad spectrum of interest group and policy process literature. In the sections below, I start off with a brief review of the material that provoked my interest in this area - the economics literature; I then move from there, through the various different elements of the policy process literature. I start by reviewing the Institutional Analysis and Design framework: As we shall see Ostrom and others designed this framework to provide researchers from different backgrounds with a “conceptual map” to locate and compare their work. I then move on to review “interaction-oriented policy” research as developed by Fritz Scharpf. Having done this, I review the policy process theories of Advocacy Coalitions Theory, and Punctuated Equilibrium Theory. I then delineate the specific research questions and deal with the theoretical issues raised by their refinement.

2.2 Economics Literature

With my background in economics, I already had a reasonable knowledge of the archetypal “Economics” based literature on rent-seeking, interest groups, regulatory capture and lobbying. Indeed, the discipline has had a long interest in the nexus between political and economic life. Adam Smith states in The Wealth of Nations (1776, 1976; 144) that

People of the same trade seldom meet together, even for merriment or diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices. It is impossible indeed to prevent such meetings, by any law, which either could be executed, or would be
consistent with liberty or justice. But though the law cannot hinder people of the same trade from sometimes assembling together, it ought to do nothing to facilitate such assemblies; much less render them necessary.

Also, another early influential thinker in the area political economy John Stuart Mill in his work *On Liberty* (1859) identified that

The *positive* evils and dangers of the representative, as of every other form of government may be reduced to two heads: the first general ignorance and incapacity, or to speak more moderately, insufficient mental qualifications, in the controlling bodies; secondly, the danger of it being under the influence of interests not identical with the general welfare of the community (Italics in original)

Smith and Mill recognized the danger posed by "people of common interest"; of representatives usurping the will of the government for their own end and of government having insufficient information and capacity to make a fully informed decision. It is informative to note that despite the fact that one of the quotes above comes from the "Father of Economics" and is contained in his major work, *An Inquiry into the Nature and Causes of the Wealth of Nations*, and the second is from a towering figure in political economy, John Stuart Mill, the subject of interest groups; their influence over policy and politicians; and their effect on societal welfare is not a subject normally associated with "mainstream" economics. The fact that in Mill and Smith's time what we now call "Economics" was generally called "Political Economy" is illustrative. Galbraith (1987) explains

What in the last century had been called political economy was after Alfred Marshall, called economics, and in pursuit of an earnestly sought reputation as a science, economic instruction and policy advice were ever more severely separated from political constraints.

This separation began to break down, firstly with the emergence of "Original Institutional Economics" in the early decades of the last century and then more assiduously in the
1950’s with the emergence of the “Public Choice” school and gained pace over the 1960’s and 1970’s with the emergence of New Institutional Economics. The work of Ronald Coase, Douglass North, Jeffrey Williamson, Mancur Olson, Elinor Ostrom (and many others) made enormous strides in reconnecting the “Political” with the “Economy”.

As outlined in Chapter 1, this research seeks to understand the variation in policy in areas where there is an identifiable interest group involved in determining policy. With this in mind, two concepts identified in the economics literature have particular relevance for this research: regulatory capture and rent seeking. Looking firstly at “Regulatory Capture”, and continuing on the theme above, Laffont and Tirole (1993; 475) state, “A major task of economics and political science is to explain the pattern of government intervention in industries.” They further explain that two main theories have been set out with the above in mind: Firstly, the traditional neo-classical “public interest” theory, that Galbraith refers to above, which sees government acting as a corrector of “market failures” such as informational asymmetry, monopoly power, externalities etc. Government in this role acts as a public spirited and disinterested “benevolent dictactor” whose goal is to maximise social welfare. This theory is subject to damning criticism, particularly the assumption of benevolence: how could it be that while acting in the “economics” sphere, a person would act in their own self-interest but as soon as that person engages in a policy role she would “swap hats” and assume the mantle of a disinterested and selfless policymaker?

Taking this into consideration, the “capture” or “interest group” economic theory emphasises the power of interest groups and their self-interest in the formation of public policy. Here, policy, echoing Mill above, is set in the interest of industry and not in the interest of the society. Friedman (1962) in Chapter IX “Occupational Licensure” of Capitalism and Freedom discusses the deleterious effects of licensing on the functioning of the market. He argues that, far from protecting consumers, licensing is likely to actually harm them by reducing supply and increasing prices. Stigler (1971) drawing on
Olson’s (1965) *Logic of Collective Action* and also indirectly on the earlier Marxian perspective that big business controls government extends Friedman’s analysis to show that the regulatory process can be captured by groups of small business. Peltzman (1976) extended the analysis to include consumers, producers and politicians in the rent-seeking struggle: in this later analysis, politicians’ trade-off the interests of the producers and consumers in order to maximize their vote.

This leads us to the concept of “Rent Seeking.” Explaining the concept simply, we note there are two ways of enriching oneself in a society: one can produce goods and services that people want and sell them; or one can use political power, either directly or indirectly, to take wealth from a person who has been productive. This concept, first formally analyzed by Tullock (1967c) is known as “rent-seeking”, a phrase coined by Anne Krueger (1974). Rent-seeking is harmful to welfare and the incentive structure of society in several ways. Firstly, the time and resources spent of those seeking to change government policy in order to receive a transfer could have been spent producing a good or service. Secondly, the transfer of goods and services to rent-seekers and away from those who are productive in the society reduces the incentive for productive individuals to work hard, save and invest. Why produce, if the fruits of your ingenuity and hard work are confiscated and given to others? The more successful “rent-seekers” are in a society, the greater the damage to the incentive structure of that society. As others in society, see the success of rent-seekers, they are more inclined to divert resources to rent-seeking. However, the opportunity cost of this activity is a smaller and smaller economic “pie”. Thirdly, rent-seeking takes the form of lobbying successfully for monopoly power. This introduces monopoly distortions into the economy, which increase prices, reduces production and diminishes welfare.

The parallel advances that have taken place in New Institutional Economics since the 1960’s in highlighting, the importance of property rights; the separation of powers, contract enforcement and good governance have vastly broadened our understanding of
the points made above. This early literature of Olsen (1965), Tullock (1967c), Stigler (1971), Peltzman (1976) and Kreuger (1973) identified the power of producer interest groups as being an important factor in the determination of policy and the capturing of its benefit for their own advantage.

This early literature subsequently developed along the two major avenues. The first as alluded to above, developed along a “new institutional” political economy route, while the second moved along the avenue of formal parsimonious modelling so identified with “mainstream” economics (See Grossman and Helpman 2001, Mueller 2003, and Laffont and Tirole 1993 for surveys).

In the early days of my research, I focused on reading and understanding, the second avenue: the formal parsimonious economics models. Over time, I came to understand that an empirical application of these models to the research question I wanted to answer would be difficult, if not impossible. In searching for an empirical route out of this difficulty, I was referred to the “actor-centered institutional approach” of Scharpf and Mayntz that espoused the use of game-theory as part of its theoretical framework. Ultimately, I came to the conclusion that this framework also did not align with my research goal of understanding the policy process over a long period. However, while surveying the game theory literature, I came across a cluster of papers that provides some insight into the longer-term policy process and that I feel is worth including.

This strand of literature examines the powers of lobbyists in a previously unexamined dimension in the formal modeling literature and it provides some important insights into the policy process. The extant formal modeling literature in this area explained the influence of lobbyists on politicians generally through the “positive” incentives that they could offer the policymakers (See Grossman and Helpman, 2002 for survey). Simply, this literature saw lobbyists as exerting influence by either providing money (either
through bribes or political contributions) or by providing politicians with information that could be used in the policy process.

The new research brought "negative modes" of influence into the analysis. Dal Bó and Di Tella (2003) in their paper "Capture by Threat" examine the conditions whereby politicians could be captured by what they called "nasty" interest groups that harassed them through means of smear campaigns, strike threats, legal cases and in the extreme by the threat of physical violence. An interesting conclusion of this paper, with relevance to this research explains why "good" policies may be delayed - "policymakers fear punishment, so they deliver the good policy only when the electoral prize for it is high enough." When reviewing PET later we shall see, that in order for the electoral prize to rise to a high enough level, voters, must be more fully aware of the "down side" of the policy issue. In other words the policy image must have changed.

Dal Bó, Dal Bó and Di Tella (2006) then extended the theory to include both positive and negative incentives. The title of this paper "Plato o Ploma?" starkly captures the nature of positive and negative incentives. The phrase is a message that Colombian judges and other public officials often receive in their first week in office. In English, the phrase translates as "Lead or silver?" The message is simple "Would you like a bullet or would you like to get rich?" - The two extremes of positive and negative incentives. Of course the incentives do not need to be these extremes - positive incentives can be election contributions, public support from an influential group, positive comment in the media, etc., while negative incentives can be street demonstrations, blockades, aggressive lobbying by interest group members, smear campaigns in the media, vexatious legal cases etc.

Dal Bó, Dal Bó and Di Tella (2007) further develop this research. They use a framework where the lobby group is modeled as a long run player, who requests a favor in each period from a series of short-run political players. In return for the favor, the lobby
makes the offer of a transfer to the politician. If the political player refuses the request for the favor, the lobby may decide to punish the political player by engaging in a strike, a blockade, legal action, a smear campaign etc. The conclusions of their model show that both rewards and punishment can be used in tandem by interest groups and that lobby groups may act in order to build a “tough” reputation so that in future periods, they need only hint at action in order to get their way. They also demonstrate that the ability to use punishments saves on the amount a contributor has to “pay” to politicians. They argue that this provides an explanation of the “Tullock paradox”. Tullock (1980) noticed that the benefits transferred to public officials in return for favors secured were usually negligible in comparison to the monetary amount of the favor.

The Dal Bó, Dal Bó, and Di Telia literature deals with power and reputation: the ability of actors to pay-off politicians or impose sanctions upon them. The research makes an important contribution to our understanding of the importance of power in lobbying, and the effect that the different time horizons of the different players have on outcomes. However, the empirical application of these game theoretical models is not a very well developed aspect of this type of research. The only nod in the direction of empirical justification of their work is reference by the authors to ad hoc examples towards the end of their papers.

In assessing the formal parsimonious route that “mainstream” economics and the above research has taken, Maki (2002; 3) starkly sums up (I believe too harshly but I think he has a point) the advantages and disadvantages of the above formal economic approach:

Economics may be the queen of the social sciences in regard to mathematical rigour but it is a failure with regard to the real world. Economics is largely a matter of thin fiction which has little to do with the wonderful richness of the facts of the real world.
The empirical testing of the early rent seeking and regulatory capture literature generally consisted of assessing the “monopoly power” of a group or industry through calculating its level of “supernormal profit”; the losses associated with the “Harberger triangle”; and “x-inefficiency” (See Mueller 2003 for examples). The empirical testing of the later more formal literature is also limited. As referred to above, ad hoc examples were cited at the end the formal proofs or the testing was generally conducted using quantitative data that is uniquely available due to the structure and reporting requirements of the US political system. It concentrated on the effect of direct congressional lobbying on policy formation and the legislative effect of PAC contributions. This research has been criticized for its limited conception of the lobbying process, as well as the narrowness of the data used (Baumgartner and Leech (1998; 136)).

In summary, we see there are two main drawbacks to this type of economics theory. Firstly, the focus on creating formal and parsimonious theory generally limits empirical testing, particularly to the econometric “hard” numerical type of analysis. This vastly narrows the subject matter of economics to those areas that are susceptible to that type of empirical testing. The second drawback relates to the fact that a large amount of the economics literature remains wedded to the dualism of an economics sphere as being separate to the political sphere. As Lerner (1972; 259) stated “Economics has gained the title Queen of the Social Sciences by choosing solved political problems as its domain.”

Looking more closely at the second drawback and elaborating on Lerner’s point, Fritz Scharpf (1997; 11) identifies the solved political domain “benevolent dictator” type research as “problem oriented research.” He notes that researchers

...should be interested in the fact that many or most of these well designed policy proposals will never get a chance to become effective. The reason is that public policy is not usually produced by a unitary actor with adequate control over all required action resources and a single-minded concern for the public interest. Rather it is likely to result from the
strategic interaction among several or many policy actors. Each with its own understanding of the nature of the problem and the feasibility of particular solutions, each with its own individual and institutional self-interest and its own normative preferences, and each with its own capabilities or action resources that may be employed to affect the outcome.

The aim of the present research and the approach that Scharpf elucidates examines how policy is actually decided in the political system not what the "best" or "optimal" policy is.

Considering this point, I believe the most suitable research to survey next is Ostrom’s Institutional Analysis and Design (IAD) framework. It was designed specifically as a landmark attempt to provide “a general framework to help integrate work undertaken by political scientists, economists, anthropologists, geographers, lawyers, social psychologists, and others interested in how institutions affect the incentives confronting individuals and their resultant behavior” (Ostrom 2007; 21). Ostrom was awarded the Nobel Prize in Economics for her work on Institutions in 2009. She (2008; 821) further elaborates

After decades of moving further and further apart-and engaging in sometimes futile arguments about which discipline has the best approach to understanding human behavior - a very encouraging trend over the last several decades has been the growth of interdisciplinary approaches to the study of human behavior.

Given that the present research uses the thinking of several different disciplines, I believe that a review of the IAD, given its goal of providing a general framework for research, is useful to do at this stage. Further as Schlager (2007; 293) states

Explanations of the policymaking process rest in theories and models, which should be, but typically are not, grounded in a framework...As Ostrom argues, frameworks play a critical role in the cumulation of
knowledge. Frameworks bound inquiry and direct the attention of the analyst to critical features of the social and physical landscape. Frameworks provide a foundation for inquiry by specifying classes of variables and general relationships among them. Frameworks organize inquiry, but they cannot in and of themselves provide explanations for, or predictions of, behavior and outcomes. Explanation and prediction lie in the realm of theories and models.

In the sections that follow: I outline the main aspects of Ostrom’s IAD framework; I then move on to explain in detail the Fritz Scharpf/Renate Mayntz “action-centered institutionalism” framework and its allied Interaction-oriented policy research. This framework acted as the theoretical basis of my early research in this area and which I used in an earlier (Weir 2009) paper.

2.3 The Policy Process Literature

2.3.1 Ostrom’s Institutional Analysis and Design Framework

The IAD framework itself is a “multi-tier conceptual map” (see diagram below). The conceptual map consists of an action arena, which is the map’s focal point. The action arena is itself shaped by three broad outside factors. These are (1) the physical/material conditions within which the action arena is located, (2) the attributes of the community and (3) the “rules in use”. These factors and the action arena lead to patterns of interactions that ultimately result in outcomes. These outcomes, then in an iterative pattern influence the action arena and also the attributes of the community. The framework also suggests that the researcher should have a mechanism and standard of evaluation that depends on the research aims.
As mentioned, the IAD places the "action arena" in the centre of institutional analysis. The action arena is a "complex conceptual unit" containing two sets of variables, one set called the "action situation" and the second set, the "actors".

Ostrom (2007; 28) states

An action situation can be characterized by means of seven clusters of variables: (1) participants, (2) positions, (3) outcomes, (4) action-outcome linkages, (5) the control that participants exercise, (6) information, and (7) the costs and benefits assigned to outcomes. An actor (an individual or corporate actor) includes assumptions about four clusters of variables:

1. the resources that an actor brings to a situation;
2. the valuation actors assign to states of the worlds and to actions;
3. the way actors acquire, process, retain, and use knowledge contingencies and information; and
4. the processes actors use for selection of particular courses of action

The action situation, as a concept, enables the analyst to identify and isolate the relevant actors and structures affecting the process of interest. This allows for the identification and explanation of regularities in human actions and outcomes. We see from above that in conceptualizing the actor, IAD guides the analyst: to ascertain the resources the actor has; to make assumptions about how and what the actor values; to assess what their information-processing capabilities are and to ascertain what mechanism they make to come to decisions. The IAD framework leaves, as a decision for the analyst to choose the model of rational human behavior the analyst feels is appropriate. Ostrom (2007; 29) notes, depending on the situation that each of the different models, for example, neo-classical rational choice or Simon's model of "Bounded Rationality", have their particular advantages or disadvantages depending on the situation.

Ostrom explains that having identified the action arena, an analyst can move in three directions. Firstly, the analyst can move inwards and examine the structure of the action arena and the variables that affect the outcomes under consideration; secondly, the analyst can view the action arena as a dependent variable and attempt to explain it using the three factors identified on the left in the diagram, or thirdly, the analyst can explain the "complex structures that link sequential and simultaneous action arenas to one another."

Linked Arenas

Ostrom (2007; 43) writing on the third form of analysis states "an important development in institutional analysis is the examination of linked arenas." The linking of action arenas allows the analyst to examine situations where the research is focused on understanding how changes in the structure of the "carrots and sticks" faced by participants in one arena affects another. As Ostrom (2007; 44) points outs
Whenever one addresses questions about institutional change, as contrasted to action within institutional constraints, it is necessary to recognize the following:

1. Changes in rules used to order action at one level occur within a currently “fixed” set of rules at a deeper level.

2. Changes in deeper-level rules usually are more difficult and more costly to accomplish; thus, there is an increased stability in the mutual expectations of individuals interacting according to the set of rules.
Figure 1: Levels of analysis and outcomes

![Levels of analysis and outcomes diagram]

Figure 2.2 IAD Levels of Analysis and Outcomes

The IAD framework delineates three levels of rules from four "situations" that cumulatively affect the actions taken and outcomes realized in any setting. These are:

1. Operational rules – these directly affect the day to day decisions made by participants in any setting
2. Collective choice rules – these affect operational activities and outcomes through their effects on determining eligibility and the specific rules to be used in changing operational rules

3. Constitutional-choice rules – these determine who is eligible and the rules to be used in the setting the collective choice rules

As we will see later the subject of this research takes place in several linked arenas. The identification of the linked arenas of this research and their connections help to solidly locate and ground the research.

2.3.2 Actor-Centered Institutionalism and Interaction-Oriented Policy Research

Having set out the IAD framework, I now outline the theory of interaction-oriented policy (IOP) research that was developed within the Actor-Centered Institutionalism (ACI) framework. Fritz Scharpf and Renate Mayntz developed the framework in their joint and separate work since the beginning of the 1970’s.

The actor-centered institutionalist framework was designed specifically as a fusion of the rational-choice and structuralist paradigms. Scharpf and Mayntz did this to gain,

...a better 'goodness of fit' between theoretical perspectives and the observed reality of political interaction...What is lost is the greater parsimony of theories...But...this is a parsimony that we cannot afford in empirical policy research. Scharpf (1997; 36)

Polsby (2003) agrees

While one can abstract from reality in order to create simple models that are amenable to formal methods of study, one does so at the risk of losing important detail. Absent sufficient knowledge of a particular political-economic situation, abstraction is premature and leads to very poor policy advice.
Scharpf, subsequently, in his book *Games Real Actors Play - Actor-Centered Institutionalism in Policy Research* (1997) applies “a set of conceptual tools” that he sees as being pertinent in understanding policy outcomes. He explains,

The approach proceeds from the assumption that social phenomena are to be explained as the outcome of interactions among intentional actors—individual, collective, or corporate actors, that is—but that these interactions are structured, and the outcomes shaped, by the characteristics of the institutional settings within which they occur. Scharpf (1997; 1)

He further elucidates the main aims of his research within the framework

The primary business of interaction-oriented policy research within the framework of actor-centered institutionalism is to explain past policy choices and to produce systematic knowledge that may be useful for developing politically feasible policy recommendations or for designing institutions that will generally favor the formation and implementation of public oriented policy. Scharpf (1997; 1)

Scharpf primarily sees the attributes of actors and their interactions as determined by the institutional setting as the determinants of policy outcomes and that the goal of the approach is to help develop politically feasible policies or to inform the design of better institutions.

The broader Actor-Centered Institutionalism (ACI) framework is similar to Ostrom’s Institutional Analysis and Development (IAD) framework and was developed over the same time period. Scharpf (1997; 36) states

But we are not alone in recognizing the need to combine actor-centered and institution-centered approaches in an integrated framework. Others have chosen different labels to describe the same fundamental idea. Elinor Ostrom and collaborators (Ostrom/Gardner/Walker 1994), for instance use
an "Institutional Analysis and Development" (IAD) framework to analyze the resolution of common-pool resource problems…

Ostrom (2008; 827) concurs with Scharpf

For policy makers and scholars interested in issues related to how different governance systems enable individuals to solve problems democratically the IAD framework helps organize diagnostic, analytical and prescriptive capabilities. It is similar in structure and intent to the "Actor-Centered Institutionalism" framework developed by Renate Mayntz and Fritz Scharpf (1995)

As, I said above, in Games Real Actors Play, Scharpf specifies the conceptual tools, that he believes are congruent with the ACI framework in order to explain policy outcomes and discover knowledge that will inform the design of institutions.

Scharpf recognizes the need to identify the set of interactions that actually produce the policy outcomes that the research is explaining. This set is the unit of analysis. This unit of analysis sets the parameters of each individual case study. IOP analyzes this set of interactions using a game theoretic approach. He delineates the interactions as specific "modes of interaction". These modes of interaction are the main means of analysis in IOP research.

Within this "set of interactions" are the players of the game or the actors within the individual case study. Actors can be individual or corporate and are characterized by specific capabilities, specific perceptions and specific preferences. Importantly, it is their choices within the institutional setting that ultimately determine the policy outcome.

**Critique of IOP Research**
Explanations of the policy process lie in theories and models that should be located within a framework. We see from above that IOP research is a set of theories and models that lie within the ACI framework. Scharpf (1997; 31) states

...a framework should provide an ordering system that describes the location of, and the potential relationships among the many partial theories or more limited ‘causal mechanisms’ (Little 1991, 15-17) that we could in fact draw upon for the theoretically disciplined reconstruction of our nearly unique cases. While we cannot hope for comprehensive theories, our work is by no means devoid of theoretical elements on which we can draw for explanation of specific, but limited aspects of our cases.

The main issue with IOP research is that it is too inadequately populated with “partial theories” or “causal mechanisms”. Scharpf’s choice of the interaction of the actors as the “specific, but limited aspects of our cases” for explanation severely limits IOP research’s applicability. The analytic basis of interaction - game theory - is too rigid and parsimonious to examine the policy process except in cases where there are only one or two variations in the key elements. Scharpf (1997; 31) recognises this himself when he states,

...to speak of a “causal mechanism” implies that the model of the particular interaction has clear-cut behavioural implications. But as we shall see in the following chapters, many actor constellations will have several possible outcomes, or they will have no game-theoretic equilibrium at all. When that is true, the (theoretically valid) model will not have the character of a “causal mechanism” but rather will require the introduction of narrative elements for a complete explanation. Moreover, even when we can rely on models with high predictive power, they are likely to be of limited scope and will only represent certain subsets of the complex, multiarena and multilevel interactions that are characteristic of real world processes of policy formation and policy implementation.

Effectively Scharpf is saying here that for a considerable element of the policy process, IOP provides no theoretical explanation and that the researcher must rely on a narrative
for explanation. This is a considerable failing in IOP research. Further, he states that even when the theory is predictive it will only provide a partial explanation. Having used Scharpf's IOP research set of "conceptual tools" in the early days of my research, I can only fully concur with Scharpf. A lesson learned during that period, however, was that the present research is located in a set of "complex, multiarena, and multilevel interactions" Ostrom (2007; 43). A key realization was that while it is "similar in structure and intent" to the IAD framework, it does not however, easily deal with multi-arena or multilevel interactions. This was a key insight of the IAD framework. We saw above that IAD can handle three types of analysis, (1) where the subject of the research is the "Action Arena" itself, (2) where the "Action Arena" is the dependent variable and (3) multiple linked arenas. The ACI framework's breadth largely only deals with the analysis of the action arena itself, further, the use of game theory as the only means of analysis in IOP research further realistically limits the analysis to a two period analysis. The use of repeated game theoretic structures did not, as I thought earlier, solve the problem because a repeated game examines the same structure over and over again, while in reality I needed a structure that handled different but linked arenas.

Ostrom (2007; 43) gave me a nudge in a useful direction when she noted that theories that utilize the concept of policy subsystems "examine multiple linked arenas at all three levels of analysis." The two principal theories that utilize the concept of the policy subsystem are the advocacy coalition theory and punctuated equilibrium theory. These are known collectively as the "Agenda Setting and Policy Adoption" theories. Sabatier (2007). In recent times Schlager and Weible (2013) have reviewed 6 new theories of the policy process. The new theories advance in different directions, however none are particularly applicable to the current research as they deal with different questions and generally do not deal with agenda setting.

2.4 Agenda Setting and Policy Adoption

Schlager (2007; 297) agrees with Ostrom when she states
The theories of agenda setting and policy adoption cluster together nicely, complementing one another even as they focus on different variables at different scales.

As mentioned above, there are two main theories of agenda setting and policy adoption. These are punctuated equilibrium theory as developed by Baumgartner and Jones, and the advocacy-coalition theory of Sabatier and Jenkins-Smith. I will outline the basis of each approach so that below I can ascertain their different elements and assess the elements of each theory for their appropriateness in relation to answering the research question.

2.4.1 Advocacy Coalition Framework

Advocacy coalition framework (ACF) seeks to explain the policy process with a policy subsystem populated with different “advocacy coalitions” as being central. Sabatier and Weible (2007; 189) explain the main elements,

The Advocacy Coalition Framework is a framework of the policy process developed by Sabatier and Jenkins-Smith to deal with “wicked” problems – those involving substantial goal conflicts, important technical disputes, and multiple actors from several levels of government (Hoppe and Peters 1993). It arose from Sabatier’s decade long experience with the implementation literature and both authors’ interest in understanding the role that technical information plays in the policy process (Sabatier 1986; Jenkins-Smith 1990; Sabatier and Jenkins-Smith 1988)

The ACF’s main focus is on how different “sides” of a policy argument interact and change in order to reach agreement. These different sides are conceptualized as “Advocacy Coalitions”. The ACF views each coalition’s different types of “core beliefs” as being a major obstacle in reaching agreement. The framework has been developed, and clarified over a number of years. Drawing on Sabatier and Weible (2007) and following their format, I will present an overview of the early ACF (circa 1999) and then explain later modifications.
The ACF has two dependent variables: “belief” and “policy change”. These are changed through two critical paths “policy oriented learning” and “external perturbations.” These elements lie on three “foundation stones”: (a) most policymaking occurs amongst specialists within a policy subsystem but their behaviour is affected by the broader society; (b) individual behaviour is modeled using social psychology; and (c) the best way to deal with the multiplicity of actors in the subsystem is to aggregate them into “advocacy coalitions”.

Looking now at each foundation stone individually, we see that with regard to the (a) policy subsystem

The ACF assumes that policymaking in modern societies is so complex, both substantively and legally, that participants must specialize if they are to have any hope of being influential... The ACF is interested in policy change over a decade or more. It assumes that the beliefs of policy participants are very stable over such a period and make major policy change very difficult. Sabatier and Weible (2007; 192)

The ACF believes that the bulk of policymaking occurs in the policy subsystem and involves negotiations amongst experts. It is however affected by two types of exogenous groups of parameters. One group is relatively stable whilst the other is dynamic.

The relatively stable parameters include basic attributes of the problem..., the basic distribution of natural resources, fundamental sociocultural values and structure, and basic constitutional structure. These stable exogenous external factors rarely change within periods of a decade or so, thus rarely providing the impetus for behavioral or policy change within a policy subsystem. They are however, very important in establishing the resources and constraints within which the subsystem actors must operate. The dynamic external factors include changes in socioeconomic conditions, changes in the governing coalition, and policy decisions from other subsystems. These also affect the behaviour of subsystem actors, but their ability to change substantially over a period of a decade or so make them critical factors in affecting major policy change. Sabatier and Weible (2007; 192)
Moving on now we examine (b) the ACF's model of individual behaviour. The ACF recognizes two systems of normative reasoning: (1) a logic of appropriateness; and (2) a logic of consequences. In the first logic the correct behaviour means following rules while in the second, it involves maximizing good consequences. Assuming that different people to a greater or lesser degree follow one of the logics, this implies that compromise can be difficult.

ACT stresses that it is difficult to achieve changes in normative beliefs and actors' views of the world are seen through a set of perceptual filters made up of preexisting beliefs that are difficult to alter. This means that actors from different coalitions are going to see the same information in different ways. The ACF also uses Prospect Theory where actors put greater value on losses than gains. This implies individuals remember defeats more than victories. ACF brings these ideas together to form the concept of the "devil shift" whereby actors' view their opponents are being less trustworthy and more powerful than they actually are. This in turn strengthens the bonds between members on the same side of a coalition.

Further, the ACF conceptualizes beliefs in a three-tiered hierarchical structure. At the broadest level are "deep-core beliefs", at the next level are "policy-core beliefs", followed by "secondary beliefs". Deep core beliefs are made up of broad normative and ontological assumptions about humanity, for example, individual rights v. society, left v. right views etc. These accordingly are very difficult to change. Policy core beliefs are applications of deep core beliefs that span an entire subsystem. Sabatier and Jenkins-Smith (1999) identify eleven policy core beliefs. These include items such as policy related values, whose welfare is prioritized, the role of government and markets in the policy, the roles of the public, elected officials, experts etc. The next level is made-up of secondary beliefs, which are beliefs that are not subsystem wide and are related to the nuts and bolts of policy change. These can be the easiest to change due to their relative unimportance.
Thirdly, moving to (c) we examine the “advocacy coalition” foundation. Here the ACF believes that stakeholder beliefs and behaviour are embedded within informal networks and that policymaking to some degree takes place at this level. It argues that policy participants will seek allies with others who hold similar policy core beliefs. If they engage in a nontrivial degree of coordination they form an advocacy coalition. The ACT believes that the concept of an advocacy coalition provides the most useful tool for aggregating the behaviour of actors over a long period.

**Critical Paths to Belief and Policy Change**

The earlier version of the ACF identifies two paths for belief and policy change. These are policy oriented learning and external perturbations, “Thus, one of the precursors to policy change is a degree of belief change among some of the policy participants or a replacement of a dominant coalition by a minority coalition. Along these lines Sabatier and Jenkins Smith (1999) have distinguished between major policy change (following changes in policy core beliefs) and minor policy change (following changes in secondary beliefs)” Sabatier and Weible (2007; 198)

Policy oriented learning is defined by Sabatier and Jenkins-Smith (1999; 123) as “relatively enduring alternations of thought or behavioral intentions that result from experience and/or new information and that are concerned with the attainment or revision of policy objectives”. The advocacy coalition’s ability to engage in policy-oriented learning depends very much on its core beliefs. These “core” beliefs are seen to be very resistant to change. Secondary beliefs are believed to be more amenable to change.

External perturbations or shocks such as changes in socioeconomic conditions, government change, and natural disaster are seen as “a necessary but not sufficient condition for major policy change within a subsystem” Sabatier and Weible (2007; 198). An external perturbation can attract public attention and policymakers to the issue and also redistribute resources within the subsystem.
ACF Modifications

Moving now to the important modifications of the ACF since 1999, we see that Sabatier and Weible (2007; 199) identify: (1) Coalition Opportunity Structures; (2) A Typology of Coalition Resources and (3) Two New Paths to Major Policy Change. I deal briefly with each modification,

(1) **Coalition Opportunity Structures**

One of the most persistent critiques of ACF is that it reflects to too great a deal its pluralist US origins and that it is not applicable to European corporatist polities or the less democratic governments of Eastern Europe and developing countries. Sabatier and Weible (2007) propose to address this shortcoming by adding a new category of variables called “Coalition Opportunity Structures” to the two existing variables external to the policy subsystem of (1) stable system parameters and (2) external events.

They identify two sets of variables ‘borrowed substantially” from Lijphart (1999) as the main elements of the new variables. They are (1) the degree of consensus needed for major policy change and (2) the openness of the political system.

Sabatier and Weible (2007; 200) note

> In sum, pluralist coalition structures will tend to have moderate norms of compromise and open decision systems. Corporatist structures involve strong norms of consensus and compromise and relatively restrictive norms of participation. Westminster systems will tend to have weak norms of compromise and relatively restrictive participation.

(2) **A Typology of Coalition Resources**
ACF has since its beginning depicted coalitions as having both (1) policy beliefs and (2) resources. Most of the research using ACF has concentrated on belief systems with very little focusing on resources. Sabatier and Weible present a typology of coalition resources that draws on work from Sewell (2005), Kelman (1987), and Weible (2006)

The typology consists of

a. Formal legal authority to make policy decisions
b. public opinion
c. information
d. mobilizable troops
e. financial resources
f. skillful leadership

As we can see, the typology essentially identifies and delineates the structural factors that explain the influence of a particular interest group. It mirrors closely, amongst others, French and Raven’s (1959) “Bases of Power” and Dahl’s (1961; 226) listing of resources.

(3) New Paths to Major Policy Change

They then subsequently outline two further paths to major policy change (1) Internal Shocks and (2) Negotiated Agreements.

Internal Shocks

Sabatier and Weible (2007; 204) acknowledge that the original version of the ACF focused on shocks external to the subsystem as a necessary cause of major policy change. They explain why this was the case; “the basic logic is that major change within a subsystem is largely impossible because of perceptual blinders and the devil shift.” They now recognize that internal shocks can also be relevant.
Negotiated Agreements

Another problem with the original version of the ACF was that it didn’t recognize that coalitions could and did come to a negotiated agreement that represented a substantial change in the status quo. Sabatier and Weible (2017; 205) state “if the ACT is to be relevant to the study of collaborative institutions and corporatist regimes, it must be modified to identify the conditions under which – in the absence of a major external and internal perturbation – agreements involving policy core changes are crafted among previously warring coalitions.” The ACF uses the literature on “Alternative Dispute Resolution” to attach this alternative to its framework.

Appropriateness of ACF for this Research

Advocacy Coalitions Theory started off in the 1980’s and 90’s as a theory to explain policy change in situations where there are substantial differences among the policy players within a subsystem. It focuses on the actors’ policy beliefs and the effects that external events have on these beliefs. I believe that advocacy coalition theory explains these situations quite well; however, I do not believe that policy beliefs are a sufficient basis from which to build a framework of the policy process that encompasses the complete policy system. I believe that Sabatier and Weible, do not do enough to delineate what elements of their broad theorizing consist of the framework and which make up the theories and models within the framework. Further, as we saw above Ostrom identifies “multiple linked arenas” as being important and indeed ACT utilizes the different linked arenas by including the different actors from the different arenas in the “advocacy coalition”. These actors however are on the “inside” of the policy system. I believe that ACF, for this research does not provide a sufficient theoretical basis of the linkages between the arenas that occur outside the subsystem in the broader public arena.

2.4.2 Punctuated Equilibrium Theory
Punctuated equilibrium theory (PET) "accounts for system level patterns of decisions or policy adoptions surrounding a policy subsystem" Schlager (2007; 297). As True, Jones and Baumgartner (2007; 155) explain "Punctuated-equilibrium theory seeks to explain a simple observation: political processes are generally characterized by stability and incrementalism, but occasionally they produce large scale departures from the past." Behind this observation lies a complex explanation: Changes are generated by boundedly rational people acting in institutional settings characterized by parallel and serial information processing. Interest group mobilizations, policy image, institutions and policy venues are the various different factors that are used to explain policy change.

Punctuated equilibrium theory was developed in a series of articles and books in the 1990s' and 2000s' to explain the dynamics of policy change in the U.S.A. In recent times, after several successful applications in other countries and further developments, it has become clear that the theory is more general than just the idiosyncrasies of the U.S. political system.

PET is essentially an information processing theory whose basis is formed by political institutions, interest group mobilizations and boundedly rational decision-making. This process is manifested through two connected elements of the policy process: policy image and agenda setting.

As issues are defined in public in different ways, and as the issues rise and fall in the public agenda, existing policies can be either reinforced or questioned. Reinforcement creates great obstacles to anything but modest change, but the questioning of policies at the most fundamental level creates opportunities for major reversals in policy outcomes. True, Jones and Baumgartner (2007; 155).
The questioning of policy is one thing but actually achieving change is another. Incremental change is the norm observed however, “bursts” or “lurches” in policy change Baumgartner and Jones posit, occur occasionally. PET explains this as arising from the interaction of multilevel political institutions and behavioral decision-making. The theories of agenda setting and conflict expansion emphasize the bias towards the status quo in the system. Anyone seeking to change policy faces an uphill battle. Those outside the subsystem “policy monopoly” face high hurdles to change policy.

**Punctuated Equilibrium Theory - Foundations**

In setting out the basis of a social science theory Douglass North (1990; 17) states, “All theorizing in the social sciences builds, implicitly or explicitly, upon conceptions of human behaviour.” Separately, he notes that: “There are no cases of complex high-income societies that do not have an elaborate structure of government.” However, in line with a “complex high income society” comes what he calls “impersonal rules”, and these rules lead to another set of problems.

The rise of impersonal rules and contracts means the rise of the state and with it an unequal distribution of coercive power. This provides the opportunity for individuals with superior coercive power to enforce the rules to their advantage.

The above quotes, I believe, capture the basis of punctuated equilibrium theory. As True Baumgartner and Jones (2007:156) state the theory lies “on a dual foundation of political institutions and boundedly rational decision making.”

The complex institutions of modern society have developed in part to overcome two major problems. Firstly, the cognitive limits of the human brain and secondly, the tendency, as alluded to by North above, Smith and Mill earlier, and enunciated in 1770,
by British Prime Minister, Pitt the Elder, that "Unlimited power is apt to corrupt the minds of those who possess it." A key constituent of curtailing absolute power is to design institutions of state so that power is separated into overlapping "multiple venues." As we shall see later, punctuated equilibrium theory was developed with a complex high-income society as a basis (USA) and sees the separation of powers into "multiple venues" as a crucial facet in determining the pattern of policy change and of breaking the "gridlock" within the policy process.

**Bounded Rationality - Serial and Parallel Processing**

Looking now at punctuated equilibrium theory’s boundedly rational foundation, we see that as True, Baumgartner and Jones (2007; 158-59) explain:

Herbert Simon (1957, 1977, 1983, 1985) developed the notion of bounded rationality to explain how human organisations...operate. He distinguished between parallel processing and serial processing in individual and organizational decision making...Political systems like humans, cannot simultaneously consider all the issues that face them, so policy subsystems can be viewed as mechanisms that allow the political system to engage in parallel processing.

Simon noted that humans only had the cognitive capacity to handle one issue or at most very few issues at once. From this we see, especially in a complex modern society, that no one individual or political leader can pay attention to all issues of importance at any one particular time. Simon labeled this "one issue at a time" individual cognitive constraint as "serial processing." He further suggested that organisations, in part, developed to overcome this human cognitive limitation. Through delegation and the division of labour, it is possible for organisations to handle many complex issues at once, by delegating specific issues to specialized units. This allows an organisation to handle many issues simultaneously, in parallel, hence, parallel processing.
However, as Posner (1974) indirectly notes when discussing legislatures below, parallel processing is not a panacea as it leads to progressively less control by the top-level decision-makers of the organization over the specialized units.

Legislative bodies are a type of firm in which the costs of production are extremely high and, moreover, rise very sharply with increases in output...Because costs of bargaining rise rapidly with the number of bargainers, a legislature cannot respond efficiently to a growth in workload by increasing the number of its members. Hence, as the business of legislature rises, it can be expected to delegate more and more of its work to agencies, and to exercise progressively less control over those agencies.

However, the specialized units are ultimately accountable to the top-level officials of the political system. Redford (1969) recognized this when he differentiated between subsystem politics and macropolitics. Subsystem politics manages the everyday policy making, while the macropolitical system deals with pressing issues that cannot or have not been dealt with by the subsystem. When the macropolitical system notices an issue within the subsystem's domain and decides to act upon it, decision-making moves from a parallel processing mode into the "bottleneck" of the serial processing mode with its inevitable inefficiencies.

**Institutional Basis**

Having explained the political system from its cognitive basis, we move now to explain it from an institutional basis. Firstly, one of the enduring principles of modern and particularly republican government is that all citizens are equal in the eyes of the state. As Grossman and Helpman (2001; 1) note "In the idealized democracy, public policy is guided by the principle of "one man, one vote"" or as Jones (1994; 1) elaborates more broadly "democracy has to do fundamentally with the communication of citizens' preferences to policymaking elites and the subsequent matching of public policies to
those preferences” However, Baumgartner (2009; 530) outlines the everyday reality of government,

Whereas no one can vote more than once, nothing stops a wealthy interest or corporation from lobbying on its own behalf, joining related interest or trade associations, mobilizing allies, hiring PR and consulting firms, and purchasing as much television time or lobbying access as it can afford.

This view is in stark contrast to “The optimistic orthodoxy of American liberalism [that] for over half a century” Dunleavy (1991; 13) believed that political power in society was distributed relatively evenly between a wide number of groups. The pluralist literature had assumed that participation in voluntary associations was virtually universal, that their existence was natural and their formation unremarkable. This literature presupposed that interest groups performed a generally useful function in mediating relatively accurately the views of ordinary people within society and that people joined interest groups primarily for altruistic reasons Dunleavy (1991; 13). The early pluralists saw the competition between freely organised interests groups as a healthy unproblematic manifestation of democracy. Bentley (1908; 208-209) notes “when the groups are adequately stated, everything is stated. When I say everything, I mean everything.” This view was moderated in the later pluralist classics of Truman, Dahl, etc. (See Baumgartner & Leech Chapter 3 for greater details)

Schattschneider (1960; 30) dealt a blow to pluralism when he argued that “organization is itself a mobilization of bias in preparation for action” (italics in original). He further states that

Special interest organisations are most easily formed when they deal with small numbers of individuals who are acutely aware of their exclusive interests...The notion that the pressure system is automatically representative of the whole community is a myth fostered by the universalizing tendency of modern group theories. Pressure politics is a selective process ill designed to serve diffuse interests. The system is
skewed, loaded, and unbalanced in favour of a fraction of a minority. Schattschneider (1960; 34-35)

If Schattschneider wounded pluralism,

Olson delivered a killing blow to any theory that would rely on the mobilization of citizens through groups to ensure an equitable and pluralistic representation of interests to government. Some types of groups will be chronically under mobilized, he argued whereas others will suffer from no problems of mobilization. The resulting group system could not be considered to be fair or democratic. Baumgartner (2001)

Olson delivered this killing blow in *The Logic of Collective Action* (1965). Echoing Schattschneider above, he points out that the aim of any interest group is the achievement of a common goal. However, some groups seek goals that are effectively "public goods" (such as a better environment, lower consumer costs, etc.) while other groups seek goals that have to a greater degree the attributes of a "private good" (such as restrictions on entry to a profession or restrictions on the import of certain products). Groups that seek goals that are a "public good" will be at a distinct disadvantage to those groups that seek goals that are a "private good". "Public good" groups due to free-riding will not mobilize to their full extent, while "private good" groups will mobilize closer to their full potential. Interest groups within the political system, therefore, cannot be considered representative, fair or fully democratic.

**The Dual Foundation Redux**

At this point we can now draw together the dual foundations of political institutions and boundedly rational decision-making upon which PET relies. The cognitive limitations of the human brain imply that politics will be divided into a macropolitical serial decision-making system at the top, with a parallel system of specialized units throughout the remainder. The specialization inherent in these units of government naturally attracts the
attention and involvement of the actors and groups that are most affected by the policy decisions of a particular unit. Consequently, the interested parties and policymakers form what has become known in the literature as a “subsystem”. However, we know from Olson (1965) that these groupings cannot be considered to be a fair or representative reflection of the broader population. As pointed out by Schattschneider (1960) and demonstrated by Olson (1965), the system of government as viewed from the point of view of subsystems is inherently biased towards those groups that seek a “private good” as their aim. This also implies that regulatory capture and rent-seeking will be a noticeable feature of any pluralist society.

**Punctuated Equilibrium Theory – The Edifice**

Having drawn together and explained the dual foundations of the PET, I will firstly examine in detail the “ground floor” of policy making – the subsystem. The “top floor” of policymaking – the macropolitical system will subsequently be examined but prior to that I will examine a conduit between the floors – information.

**Subsystems**

Policymaking most of the time takes place in policy subsystems or policy communities away from the glare of publicity. This tendency was first noted as “policy whirlpools” in 1939 in Ernest Griffith’s *Impasse of Democracy*. Lobbyists, politicians, and administrators, with a common interest in a particular policy area, interact on a continuous basis to shape policy in that area. Griffith was the first of a group of scholars who conducted “policy studies” that did not focus solely on interest groups or subsystems but recognized them as a key element of the policy process. These studies were mainly conducted post WW-II. A few of the best known are Griffith (1939); Maass (1951);
The make-up of these communities and their importance in the policy process has varied over the years in the views of the scholarly community. The post-war literature was sometimes later perceived as solely reflecting the subsystem as an “iron triangle”: a narrow community with limited participation and high levels of influence over their particular domain; where the interaction between the interest groups, the legislators and the bureaucrats was generally friendly and non-confrontational; and influence was achieved through lobbying these friends with the result of insulating and institutionalizing the subsystem.

Baumgartner and Leech (1998; 122) show that this was not always the case in the post-war literature, but state that “the classic policy studies agree that relationships between interest groups and government officials are usually close, but the studies disagree about how open the system is and the degree of conflict involved.” They note that Redford (1969) provided a framework for thinking about subsystems, in that a subsystem is not a rigid “iron triangle” dismissing all dissenting voices, but one that provides a stable framework within which policy is discussed. “Subsystems contain conflict, they do not eliminate it.” A further critical element to the cohesiveness of a subsystem is, as Olson (1965) pointed out, the degree to which the aim of the interest groups involved in the subsystem are public or private goods.

In summary, this literature claims that conflict in policymaking was muted. The differences that did emerge amongst members were generally reasonably easily settled due to their long history of shared work and a strong norm of compromise. Further, elections could happen, politicians could come and go but policy would often remain undisturbed. (See Cater 1964)
Baumgartner and others (2009; 62-63) identify an informative link between the above case-study based literature and Shepsle and Weingast’s “structure induced equilibrium.” literature. They point out that

This pioneering institutional analysis of Congress argues that the congressional committee structure and the associated rules and norms surrounding committee policy-making work to produce stable policy outcomes.

Essentially, it argues that politicians will be attracted to committees that focus on policies that are important to their constituency. “With shared interest comes a vested interest, as only those with a material concern with the issue have the incentive to become expert on the subject matter.” Politicians become experts in the areas that matter to their constituents; consequently, a system of mutual deference emerges, where politicians will not interfere in each other’s “domains”. This implies that the committee system is biased in favour of interests. The committee system can be seen as one giant logroll. The Shepsle & Weingast view suggests that powerful structures and gatekeepers play a key role in the policy process preventing many changes from occurring. They developed the above as a theory of the US Congress; however, it has been applied over the years to different branches of government and polities.

In 1978, Hugh Heclo challenged the view that narrow and consensual subgovernments controlled policy. He argued in Issue Networks and the Executive Establishment (1978) that the policy communities he observed were much more open and far less cooperative than the existing policy literature had maintained. Heclo’s work coincided with the enormous explosion in number of interest groups that occurred from the 1960’s. This explosion, he argues didn’t just make subgovernment a broader phenomenon but changed the dynamic of interest groups politics to a more complex and conflictual arrangement.
Heclo’s broader view of the subgovernment was backed up by Sabatier’s work on advocacy coalitions (See Sabatier 1988 and Sabatier and Jenkins-Smith 1993).

Baumgartner and Jones (1993; 6) reverse the trend in broadening out the membership of subsystems. They identify a “policy monopoly” as a particular type of subsystem that is dominated by a single interest. They identify it as having a definable institutional structure responsible for policymaking in a particular area and its responsibility is supported by some powerful image or idea. It can also be argued that regardless of the expanded numbers of players in or around the issue network or subsystem, due to agenda setting and cognitive limitations, only a small number of players form a core of influence around an issue.

Despite the above differences in views over time, one fact consistently emerges from the different literatures that a central group of “insiders” influences policy and that it encourages the macropolitical system towards equilibrium. As noted in Chapter 1, this research is concerned with policy areas where there is an interest group that is strongly identified as being part of the policy process. As we will see in the case study chapters, these interest groups strive to construct a “policy monopoly” but as Baumgartner and Jones (1993, 2009; 8) recognize “such a state of affairs is remarkably difficult to sustain in the open American political system. As a consequence many policy subsystems are incomplete policy monopolies”. We will see in the case studies, it is also difficult to maintain a policy monopoly in the Irish political system but also that the different interest groups have varying ability in maintaining it.

Information and Policy Making

Having examined the “ground floor” of policymaking, I now examine the role information and its particular attributes play in the policy making process. Communication is central to the policy process. No communication nor for that matter,
decision can be made without information. Information is the source of dynamic in the policy process. New information on any issue either confirms or questions the status quo of that issue. Further, as we saw above the cognitive limits of the human brain has an impact on the timing, nature and proportionality of decision making in organisations. Jones and Baumgartner (2005) have developed a model of disproportionate information-processing that encapsulates PET to explain the nature of change in the policy system. Indeed they

...see information as providing a profound dynamic element to the political process, and we see the pursuit of democratic politics as essential to the processing of information in public policymaking. Just as important, the effective processing of information is necessary for the conduct of democratic government. They are as intertwined as the strands of DNA's double helix. Like it or not, we can't understand government and how it operates without understanding how it processes information, including how it distorts information. Jones and Baumgartner (2005; 3)

In this section I will examine in detail the role information plays in policy change. Firstly, we shall discuss the basics of information. We then move on to explain in detail the elements of Jones & Baumgartner's disproportionate information processing model.

**Information Processing**

Here I set out the basis and definitions of information processing. A "signal" is any detectable change in the environment. For example, in the case studies of this research, a signal could be a queue at a taxi rank, a build up of trollies in the corridors of an A&E department, an increase in waiting times for patients to see a consultant, or a complaint by tourists that taxis are difficult to find in Dublin. It is important to distinguish between a change in a signal and attention to these signals. 'Signals are information, but when we become aware of signals, they become "news"...signal detection is critical to future action' Jones & Baumgartner (2005; 5). All signals are characterized by (a) uncertainty -
has something in the environment actually changed and (b) ambiguity - can we be certain what the signal means - do we understand it? Have we to use brain effort to work out its meaning or implications?

Ambiguity is "a state of having many ways of thinking about the same circumstances or phenomena" Feldstein (1989; 5). Due to the uncertainty of information, these different ways of thinking may not be "reconcilable, creating vagueness, confusion and stress." Uncertainty and ambiguity are related but different concepts. Uncertainty relates to the inability to accurately predict an event. It can be seen as ignorance or lack of understanding. Ambiguity may be thought of as ambivalence; something we cannot make a decision on, something in the back of the mind that needs attention, but not quite yet; something that requires attention but isn't pressing (yet) for whatever reason. While more information can reduce uncertainty, more information does not reduce ambiguity. Consequently we can never be sure that there has been a relevant change in the environment.

Supply of Information

The policy process is awash with information. Information comes from many sources. Government departments and agencies, academics, think-tanks, NGOs, interest groups and the media all produce information that is relevant to the policy process. Most of the producers of information for policy purposes claim that their report is guided by some higher normative purpose; the national interest; the creation of jobs; the good of the people; for the benefit of the old; the young; the sick; the poor; etc. However, as Jones & Baumgartner (2005; 7) state 'In politics and public policy, most who are involved care about the outcomes; they are not and should not be expected to be “neutral”'. Why then should we expect the information that they produce to be neutral also? The participants in the policy process understand this and generally further understand that it is of crucial importance to capture the "hearts and minds" of those with influence over the policy
decision. The different sides of the policy issue attempt to capture those “hearts and minds” with their particular “spin”, “conventional wisdom”, “policy image”, or “issue definition”.

The Policy Process and Information

Simon (1978) summed up the policy situation well when he stated “A wealth of information creates a poverty of attention.” Jones & Baumgartner (2005) have developed a behavioral model of organisational decision-making, using Simon’s research on individual human cognitive constraints, which encapsulates Punctuated Equilibrium Theory.

The model is “holistic”, stretching from the initial attention to a policy signal through a full cycle of policy decisions. Most previous attempts at explaining decision-making treat the problem as given and focus upon how one chooses among the available solutions. However, the Jones & Baumgartner model asks how a government prioritizes on different policy issues. Their model sets out collective decision-making in four stages. These are agenda setting, issue definition, proposal and debate, and collective choice. These stages are listed linearly but Jones and Baumgartner are at pains to stress that this does not mean that different stages cannot overlap.

1. Agenda Setting

From our earlier discussion, we know that most policy decisions most of the time are made within the parallel processing world of the policy subsystem. However, due to the representative and cognitive limitations of that system, it is difficult over time for it to make policy that is reflective of the needs of the people. A further important contribution by Schattschneider is that focus or attention on a political problem is often due to the
political system itself and not due to the actual objective merits of an issue. He notes (1960; 7) “there has indeed been a long-standing struggle between the conflicting tendencies toward the privatization and socialization of conflict.” Who sets the agenda is important? What is not discussed in the political system is telling; who are the voiceless? To what extent can individual interest groups or policymakers control or manipulate the policy process?

Baumgartner (2009; 520) elaborates, when he states “the number of participants in a conflict, its public salience, or the range of actors (especially government agencies) considered legitimately involved in the issue” is not decided on a formal basis where the principles of equality or fairness are applied “but indeed were the fundamental determinants of the outcome of the battle and therefore were the object of the political struggle itself.” Jones (1994; 1) puts it more succinctly when he states “much of politics concerns the communication of structure rather than the communication of preferences.”

In a similar vein to the dictum that “history is written by the victors”, Schattschneider recognizes that in a debate over a policy issue, the side that succeeds in having its view prevail, has the incentive to limit the scope of attention on the issue. Being the “winning side”, it has at least to some degree persuaded the lower level bureaucrats of the merits of their policy and formed some form of subsystem with them.

The losing side on the other hand wants to increase the scope of the conflict in the hope that the broader audience of the macropolitical system will recognize the merits of their claims and help deliver a better or fairer result from their perspective. Simply, the winners, in control of policy, wish to maintain the status quo and its structure, by privatizing the conflict while the losers wish to change it by socializing the conflict to a broader audience with power to change the policy.
Schattschneider's critique of pluralism is strengthened by the insights of Bachrach and Baratz's (1962) analysis of power, influence and decision-making. They argue that there are "two faces of power". The "first face", the authority to choose between alternatives, they state, is only one-side of the story. The "second face", the ability to control the alternatives that are under discussion is also a crucially important feature of power. What is not discussed in a political forum; is not changed by that forum. "The political agenda is the set of issues that are the subject of decision-making and debate within a given political system at any one time" Baumgartner (2001). The important question is; how is the agenda of higher-level decision maker's determined?

The policy subsystem cannot completely control the issue entering into the public domain due to random events, the activities of outsiders, changes in the society, economy etc. However, when the issue enters the public domain, the subsystem claims ownership and expertise in commenting on the issue. Their goal is to "contract the issue" by engaging in a process of "negative feedback" that dampens down interest in the issue. Their message is effectively to say, like a police officer at a crime scene, "nothing to see here, we've everything under control; we are the experts; please move along." With the issue under their control, policy generally doesn't change except in small increments that benefit the insiders (increases in budget etc.) or as a small concession to outsiders to dampen criticism and deflect the attention of the broader political system.

The policy subsystem plays a crucial role in privatizing the conflict. Baumgartner and Jones (2002; 9-11) see policy subsystems as a "negative feedback system" which they explain as follows

A negative feedback system includes a homeostatic process or a self-correcting mechanism. Just as a thermostat adjusts to falling temperatures by putting out more heat, homeostatic devices work to maintain stability. Whatever the direction of the outside force, the homeostatic device operates in the opposite way; the result is to maintain steady outputs in the face of changing external pressures. The key element of any negative
feedback system is simply that the system reacts to counterbalance, rather than reinforce, any changes coming in from the environment.

A portion of the subsystem's power arises from its distance and consequent autonomy from the broader macropolitical system. Due to the costs of the macropolitical system observing every subsystem, policy is generally made away from the glare of publicity and generally without the checks and balances inherent in the broader macropolitical system. As Edmund Burke (1756; 52) stated "where mystery begins justice ends."

The goal then of the policy "losers" is to "expand the issue", attract the attention of others outside the policy subsystem especially decision-makers in different venues of government that can take action in the area. The information that emanates from the losing side is known as "positive feedback" and it exhibits different characteristics to "negative feedback".

A positive feedback mechanism includes a self-reinforcing process that accentuates rather than counterbalances a trend. If we observe such a process operating through time, we find considerable clustering of events, along with large and generally unexpected changes. Seemingly random initial events can lead to a cascade of subsequent events that dramatically change the status quo. The world of positive feedback processes is changeable, fickle and erratic when compared with the stable and predictable outcomes associated with negative feedback processes. Baumgartner and Jones (2002; 13)

Feeding frenzies, cascades and bandwagon effects are often used to describe these processes. A modest change can cause future changes to be amplified. The subsystem seeks to "dampen down" any issues that arise that effect "their" policy while the "losers" effectively try to "fan the flames" and attract the attention of as many venues as possible in the hope of building up a momentum for change. This change, when it happens, tends to occur in jumps, lurches or punctuations due to the nature of the positive feedback effect.
We see from the above that both sides are effectively engaged in an information war. In order for one side to win the ultimate prize of the ability to control the policy issue, it is important that it wins control of how the macropolitical system views the policy. Each side has their view of how the policy should look. True, Baumgartner and Jones (2007; 161) state, “policy images are a mixture of empirical information and emotive appeals.” And that they “play a critical role in expanding issues beyond the control of the specialists and special interests that occupy...“policy monopolies”” The battle is for control of the “issue definition” or “policy image”.

2. Problem Definition

Once an issue has forced its way onto the agenda, it would seem that the next thing to do is to find a solution. However, most public policy issues are fundamentally complex and the next thing to do is actually define the problem. As I mention above policy problems have dimensions. These are the source of the different policy frames.

“Policy images” can be more broadly referred to as “issue definitions” or “frames” in the literature and these make up the multidimensionality of a policy issue. What weight should the political system accord each dimension? How should the problem be “framed”? Should some issues be dismissed with a zero weighting as the “fairy tales” of self-interested parties. A major problem is that most policy issues, most of the time, have so many complex and interlinked underlying dimensions that it is impossible for the policy-making system, with its cognitive limitations, to give them all full consideration. Policy, as a result, is inevitably partial.

This conclusion then displays the importance of getting a particular “issue definition” or “policy image” as being the “accepted” one; the one granted “conventional wisdom”
status. What are the factors that determine the issues definition? Cobb and Ross (1997) found that problem definitions are often constrained by general cultural experiences and understandings. For example, it can be argued that Irish people are fixated with owning property due to the tragedies and dislocations of the Famine, while German people are obsessively concerned with inflation due to their catastrophic post-war hyperinflation episodes.

Further, there is also recognition that ideas matter. New ideas and arguments break through every so often that overturn the previously accepted viewpoint. An example of this would be the liberalization, privatization and deregulation wave that swept across the US and UK in the 80’s overturning the previously accepted view of public ownership and government intervention.

Baumgartner (2009; 522) also notes

William Riker (1984, 1986) made clear that strategically minded politicians could indeed induce major policy change and affect the political agenda by shifting the terms of the debate. This could be done by choosing new dimensions of evaluation, to shift the debate from being “about” topic X to describing it in terms of topic Y...“Heresthetics” [is] the word he used to describe the process of manipulating decision-making procedures or the dimensions of debate.

Ultimately, if a government is to change policy it must first have come to a definition of the problem. However, how it comes to this definition, we see is far from an “objective” process. We see that strategic players, current ideas or fads and cultural backdrops all have impact on how the “frame” is defined. Once the problem is defined, it can then be matched with a solution.

3. Proposal and Debate
"Once a problem is defined, proposals for addressing it must be generated" Jones & Baumgartner (2005; 41). Generally, there is no shortage of proposed solutions emanating from different sources. Newspapers columnists, interest groups, government agencies, policy entrepreneurs, academics, religious leaders, concerned citizens etc. all express a view. As noted above each of these solutions will reflect the different issue definitions, biases and blind-spots of each actor. Jones & Baumgartner (2005; 57) state

In any reasonably complex decision-making environment, there are typically more sources of potentially relevant information that can simultaneously be considered, evaluated and systematically incorporated. So people and organisations alike use heuristic shortcuts to handle the overabundance of information. One important shortcut is to pay attention to certain indicators rather than others. These indicators are almost always imperfect; they measure social realities with error. Further, the set of indicators that people monitor is virtually always incomplete – a direct consequence of the bottleneck of attention.

This complexity forces actors to use heuristic shortcuts to make decisions. However these shortcuts mean that people form proposals and make decisions on their viewpoint on policy issues based on incomplete information. Jones and Baumgartner (2005; 58), model decision-making using an “implicit index” approach; the index combines the different sources of information and gives each source a “weighting”; however this “is typically done in an unconscious if not downright haphazard fashion”. The decision-maker may weigh the various different elements of the problem incorrectly due to cognitive limits and emotional attachment to certain items such as political party, ideology, religious beliefs, previous solutions etc.

The more attributes a policy have the more difficult and complex the debate. The human brain has enormous difficulty in making decisions based on tradeoffs. Again, heuristic shortcuts are used where the complex set of attributes of a solution is simplified down to
a single dimensional choice, for example, yes or no, left or right. Further, policy attributes do not stay stable over time: the weighting changes depending on time and context. This implies that when policy decisions are made they are necessarily incomplete and partial. As the “world” changes over time different attributes not catered for in the present policy solution will exacerbate and create signals that indicate that change may be necessary again.

So how does a proposed solution become attached to a particular policy problem? We can see from the literature (See Sabatier 2007 for survey) on multiple streams theory that it operates on the basis that proposals and solutions are analytically separate, in the sense that solutions through policy entrepreneurs, policy activists etc. search out policy problems. In order to do this the solution proposer must redefine the issue definition or policy image so that those with the ability to change the policy see it as the most viable solution. However, as Baumgartner (2009; 524) states

There is strong evidence from throughout the literature going back decades to make clear that policy definitions are strongly related to policy outcomes...so lobbyists have a strong incentive to reframe issues and when they succeed the direction of policy often changes. But perhaps the shifts in policy images are due to broader factors such as new evidence and not only the rhetorical tactics of individual lobbyists or policy entrepreneurs. To this point, the literature has failed to pinpoint exactly the causes of shifts of frames, though it has clearly established that such things are fundamental to explaining policy outcomes and the impact of agenda setting

4. Collective Choice

After the process of recognition, problem definition and proposal generation has occurred; some final decision-making process has to make a choice among competing alternatives. As we know from Condorcet, Shepsle, Arrow, Riker and others this
decision-making procedure must have some element of arbitrariness and that different institutional settings will deal with different problems in different ways.

Further, Baumgartner and Jones (1991, 1993) developed the concept of “venue shopping” due to their observation that a single institution rarely has monopolistic jurisdiction over a particular policy issue. “Policy venues” are the “institutional locations where authoritative decisions are made concerning a given issue” Baumgartner and Jones (1993; 32). Timmermans and Scholten (2006; 1105) give a more expansive definition as “institutional sites where the portrayal of problems and solutions take place...They are locations where policies originate, obtain support, and are adopted as binding decisions.” Pralle (2003; 233) in discussing venue shopping notes that “A key component of any political strategy is finding a decision setting that offers the best prospects for reaching one’s policy goals”. Baumgartner (2009; 524) elaborates

Policy actors seek to push their issues to one or another institutional venue depending on their estimate of their likely success; many policy changes have been related to shifts in institutional control or the emergence of a new institutional player rather than to an established institutional player shifting its position.

Pralle (2003; 233) defines venue shopping as “the activities of advocacy groups and policymakers who seek out a decision setting where they can air their grievances with current policy and present alternative policy proposals”. Venue change is also connected to the change in policy image as brought on by a mobilization of the “outsiders” to the policy subsystem. True Baumgartner and Jones (2007; 157) state

...once a mobilization is under way, the diffuse jurisdictional boundaries that separate the various overlapping institutions of government can allow many governmental actors to become involved in a new policy area. Typically, the newcomers are proponents of changes in the status quo and they often overwhelm the previously controlling powers
Baumgartner and Jones (1993) saw venue shopping particularly as a peculiarity of US institutional design, where the separation of powers, federalism and a situation where states, local governments and various federal agencies often fight for control of an issue or have control over different elements of the same issue. However, in the intervening years, PET has been used successfully in studies of diverse countries such as Denmark, Netherlands, Belgium, Canada, Great Britain and Switzerland.

However, Pralle (2003; 234) warns that

Theories and studies of policy change confirm that venue shopping is an integral part of the policy process and at the heart of many political strategies...But the practice of venue shopping is often more complex than some studies suggest and an oversimplified portrayal of venue shopping runs the risk of overstating the opportunities for and frequency of policy change.

Indeed this is the case and it remains so. Pralle’s (2003) study remains practically the only study that seeks to deepen our knowledge of venue shopping with a presentation of “a more complicated analysis of its practice than most empirical studies” (Pralle 2003; 233). She finds that venue shopping can; be experimental; be related to the advocacy group’s identity and organizational needs; and can be shaped by policy learning.

A further, important element of the collective choice element of the policy process is of course, the particular broad institutional setting within which the research takes place. The details of the Irish institutional setting are set out in Chapter 4.

**Appropriateness of PET for this research**
As stated above PET seeks to explain *system level patterns* of policy changes that occur in relation to policy subsystem not policy change itself. In doing this, PET explains quite well how the subsystem interacts with the macropolitical system to show the factors which explain patterns of policy change from a broad system level point of view. Whereas I found that ACT above did not have, for the purposes of this research, a sufficiently developed theoretical structure for the policymaking system external to the subsystem, PET on the other hand does not have a sufficiently developed structure of the internal workings of the subsystem in order to allow it to explain policy change from this source. PET sufficiently explains that the “winning” interest group will try to privatize the “issue” when it leaks into the macropolitical system and that the losing side will try to expand it; however, it does not attempt to explain the inner workings of the subsystem and macropolitical systems as “linked arenas” from the “inside”.

### 2.5 Setting the Specific Research Questions

Having set out, delineated and explained the relevant theories above, and specified the general research question in Chapter 1, I am now, in line with Punch’s “Hierarchy”, in a position to detail the specific research questions that as a whole will answer the general research question. These specific research questions are phrased at such a level of precision that the data we need to help answer them can be readily identified. Specific research questions as we noted previously, should be empirical questions. This ensures that the research links the data to be collected to the theoretical propositions and ultimately to the conclusions.

Identifying the theoretical propositions of a research question is essentially why we conduct a literature review. As Yin (2003; 22) states “...each proposition directs attention to something that should be examined within the scope of study...Only if you are forced to state some propositions will you move in the right direction.”
2.5.1 The Independent Variables

Identifying the independent variables is done through a process of matching suitable theoretical propositions to the research question. As Yin states (2003; 28) “For case studies, theory development as part of the design phase is essential, whether the ensuing case study’s purpose is to develop or test theory.”

In the early period of my PhD studies, I was advised by my original supervisor to write a paper and present it at a conference. A literature review, methodology etc., he advised, could be written at a later stage. The important thing to do, according to his advice, was “to get out there.”

Following this advice, I presented a paper “The Evolution of Taxi Policy in Ireland” at the PSAI annual conference in Liverpool in October 2009; at the ECPR “Regulation in the Age of Crisis” Conference in UCD in June 2010; and again at The Interest Group and Lobbying Conference in DCU in August 2010. The paper was published as part of the proceeds of this conference in a special edition of the Journal of Public Affairs. (See Appendix I for a copy of the paper)

The paper used Scharpf’s IOP research as a theoretical basis, with research from Dal Bó, Dal Bó and Di Tella, on “Regulatory Capture” attempting to provide some form of dynamic basis that had emerged from the data. The empirical basis of the paper analyzes the evolution of taxi policy from 1978 until the “deregulation” of the taxi market in 2000. In an attempt to capture the changes in taxi regulation and create a temporal framework amenable to game-theoretic analysis, I divided the time period of analysis into four distinct periods. The first period of analysis covers the period from 1978 to 1991; the
second from 1991 to 1999; the third from 1999 to early 2000 and finally a period late in the year of 2000.

The paper received generally favourable comment at the conferences; however, I felt that there were a number of issues with the use of the Scharpf/Mayntz framework that was problematic. The game theory element proved quite unwieldy particularly in trying to account for policy change over more than a two-period framework and at different levels of government. Further, as noted above, IOP research faces considerable theoretical difficulties due to the indeterminacy of some of the game theoretical aspects of IOP research. Scharpf’s advice to rely on narrative in these cases isn’t sufficient, especially if there are other theories that do not rely on it at key junctures of the research. However, this investigative period was fruitful. Three concepts stood out as being key theoretical propositions in relation to the general research question.

2.5.1.1 Policy Image and Venue Change

Firstly, it became obvious that an explanation of a broad system-wide view of the policy was necessary. How the public, the press and politicians perceived the issue and the role of the interest group in trying to maintain a favourable view of “their” policy in the public domain appeared to be important. In examining the pilot case study, the public’s view of the taxi issue and its increasing and regular appearance in the media appeared to be important in attracting the attention of politicians. I also saw the movement of the issue to the courts as being an important factor in breaking down the taxi drivers’ hold over policy.

Examining the two “linked arena” theories of ACT and PET respectively; we see that advocacy coalition theory, as we saw above, sees the determination of change as coming essentially from within the subsystem structure through “policy oriented learning”, whilst
being influenced from exogenous “external perturbations” outside the subsystem. The variable of “policy-oriented learning” I believe, is not broad enough as a central variable to explain policy change. Sabatier and Weible also recognized this when they significantly adapt ACT with the addition of three significant “modifications.” These are (1) Coalition Opportunity Structures, (2) A Typology of Coalition Resources and (3) Two New Paths to Major Policy Change. Sabatier and Weible see these as broadening out the applicability of ACT to a broader range of situations and political systems.

On the other hand, PET sees “information as providing a profound dynamic element to the political process” Jones and Baumgartner (2005; 3). It effectively deals with the changes brought on by the “external perturbations” by encapsulating them in how the cognitive abilities of the human being and institutional structure deal with them. They view the democratic system as an information-processing system. This system wide dynamic of change is reflected through the “issue definition” or “policy image” concept. Control of policy image is a key battleground upon which the control of policy is fought as it heavily influences how the broader macropolitical system views the policy. The policy image is the key variable that connects the subsystem to the macropolitical system. As we saw from Schattschneider, one of the main functions of the interest group is to “privatise” and claim ownership of the issue. They attempt to do this by controlling the “policy image” of the issue. I view the policy image concept, for the purposes of this research, as a measure of the interest group’s “influence” in the broader macropolitical arena. This “outside” influence variable forms part of a larger influence variable that I develop below.

Connected to the policy image, within a liberal democratic institutional structure, is the concept of “venue shopping” facilitated by the separation of powers. As the issue’s policy image deteriorates due to the inability of the interest group to privatize it, it attracts the attention of outside policy actors in different venues where the interest group has less influence. This appeared to occur in the pilot case study when for example, the
Taoiseach Bertie Ahern became involved in essentially a local authority venue issue and also ultimately the "venue" of the courts was crucial in the deregulation of the market. A key element that must be recognized is the timing and connection between the policy image and venue variables. When an issue arises on the agenda, as we saw above, the subsystem attempts to control the issue and privatize it. The outsiders effectively try to ignite the issue, change its tone and get a different venue involved. Concurring with the mode of inference of temporal succession, it is key for the theory that a change in policy image must occur prior to the change in venue to break the hold of the subsystem on the issue. If there is a change in venue, without a change in policy image, then we cannot expect a change in policy away from the subsystem's position. As True Baumgartner and Jones (2007; 158) state

If the citizens excluded from a monopoly remain apathetic, the institutional arrangement usually remains constant, and policy is likely to change only slowly (the negative feedback process). As pressure for change builds up, it may be resisted successfully for a time. But if pressures are sufficient, they may lead to massive intervention by previously uninvolved political actors and government institutions.

If there is a change in policy image with no venue change, it is still possible that we may see some small incremental change in policy that gives some small concession to the outsiders to dampen down attention and take the heat out of the issue or even a policy change that favours the subsystem but that is small in nature. As Baumgartner & Jones (1993, 2009; 20) "Each time there is a surge of media interest in a given topic, we can expect some degree of policy change."

PET through the broad policy image concept provides a consistent measure of how "external perturbations" affect the broader society's views the issue. It also seems to provide a sound theoretical explanation of how the institutional structure of the separation of powers works through the change in venue concept. Baumgartner and Jones initially saw PET as being applicable solely to the USA. However, on testing, PET has been
shown to be applicable to other liberal European democracies. ACT, as we saw above, consciously broadened out it applicability due to criticism that it to, too great a degree reflected its origins in the pluralist US system. It did this by adding the modification of “Coalition Opportunity Structures” to fit with “European corporatist regimes...[and] the less democratic societies of Eastern Europe and developing countries” Sabatier and Weible (2007; 199) However, from the evidence of the pilot case study, venue shopping appeared to be an important aspect of policy change and further the Irish political system appeared to be close enough in characteristics to the other European democracies where PET had been successfully used. Given that the policy image concept provides a systematic means of measuring the interest group’s “outside” influence in the broader political system, and the venue change variable reflects a key institutional design element of a liberal democracy like the Irish political system, I adopted both as variables. I develop these variables with regard to the current research in the Methodology Chapter.

2.5.1.2 Power/Influence

Having identified what seemed to be a reasonable explanation of the broad system-wide factors of policy change, it also seemed necessary from the literature review and evidence from the pilot case study to examine the interaction of those closely involved in the day-to-day policymaking. PET did not offer any explanation of actors on a micro level except that the insiders tried to “privatize” the issue while the outsiders tried to attract powerful actors in alternative venues. ACT, on the other hand sees “policy learning” as being a central variable however; the pilot case study provided little evidence of any policy learning or change in opinion during the period of analysis. I found ACT’s central “inside” variable of “policy learning” to be an unconvincing one for the basis and purposes of this research. What did emerge on examination and to a large degree is a function of choosing policy issues that appeared to be subject to rent-seeking and regulatory capture was the power/influence different groups and individuals appeared to have over the policy outcome. However, when I first began this research I had no idea
how to conceptualize or measure it. Scharpf’s framework doesn’t identify it as being central; nor do the theories of ACT and PET.

However, on deeper examination of the policy process theories, we see that ACT, IOP and even Ostrom’s IAD framework all have some conception of power/influence as a variable. The IAD framework lists power/influence as a cluster of four variables, while IOP theory describes power/influence as “capabilities” and a modification of ACT describes the variable as a typology of “coalition resources.” IOP, IAD and ACT effectively delineate power/influence in the format of resources/bases. PET due to its purpose of examining a pattern of policy change omits power/influence at any explicit level.

Examining the delineation of power/influence as variables in the various theories, we saw above, that IOP theory conceptualizes power/influence as “capabilities”. Scharpf states “Capabilities describe all action resources that allow an actor to influence the outcome”. These include personal properties like “physical strength, intelligence or human and social capital...physical resources such as money or land or military power; technological capabilities; privileged access to information and so on” Scharpf (1997; 43). Looking now at Advocacy Coalition Theory, Sabatier and Weible (2007; 201-03) list a “typology of coalition resources”. These are (a) Formal and Legal Authority to make policy decisions (b) Public Opinion (c) Information (d) Mobilizable troops (e) Financial Resources (f) Skillful leadership.

Further, in examining ACT’s central variable “policy belief”, I came to the conclusion that even if certain actors did change their beliefs, it ultimately depended on their influence within the policy system as to whether policy changed or not; that is not to say that policy beliefs are not important to policy change or do not ultimately bring about policy change but that in order to change policy; the beliefs need to be “taken on” by actors with influence or for the beliefs to be persuasive in the long run so that they
change the influence of the actors who hold them. Also in examining ACT’s modification of “two new paths to major policy change”, of negotiated agreements or shocks, within the subsystem, I believe that they can effectively be dealt with as changes in influence of the different actors.

Reading further on power/influence I found that its definition and measurement has had a long and controversial career. (I deal with the measurement issues in the methodology chapter). As Baumgartner and Leech (1998; 13) state

...the 1950’s and 1960’s were marked by in both political science and sociology by vituperative and ultimately inconclusive debates about the distribution of power in society, with the literature on interest groups at the center of these debates. Because of these difficulties, and because of the multiple contradictions that previous generations created, a sensible reaction seemed to be to move on to other areas of research where conclusions could be better substantiated. One of the results of this has been that scholars have avoided some basic questions of political power, or have studied those questions in such circumscribed ways that their carefully designed studies can often not be generalised beyond the case on which their evidence is based.

However, while for the most part, these problems remain; recent advances in theory and methodology have to a small degree alleviated these problems. I further believe that in using a carefully selected “two case” case-study methodology, the research could help indicate differences in the power/influence of different interest groups and therefore help provide a deeper explanation of the policy process and the role of different interest groups in the variation of policy.

Conceptualizing and Defining Power and Influence
In examining how to conceptualize interest group power/influence, firstly, I set out the basic definition of power. I then address the issue of treating power and influence as synonymous words, which the interest group literature has tended to do. See Lowery (2013; 3). I use the discussion by Morriss (2002) to provide a clearer insight in the use of the terms in the interest group literature and then use it to provide the definition of influence used in this research. I subsequently address issues of identifying and assessing levels of influence. Finally, using the identification of power/influence resources in the policy process and leadership literature, I develop a typology of power/influence resources specifically in relation to the policy process.

Examining briefly the basics of power/influence, Scott (2001; 1) states “In its most general sense, power is the production of causal effects...The power of a river, for example, is manifest in its causal effects: it erodes a bed, transports rock material from one place to another, and produces a delta or a flood plain”. Causal change is also central to most concepts of political power, but the crucial difference between power and political power is human agency. “Political power refers to causal relations among humans, not to inanimate forces that change human behavior, such as a hurricane.” McFarland (2004; 17)

Důr (2008; 1220) notes, regarding the difference between power and influence, that “A first obstacle crippling empirical research is the lack of an agreed definition of these two terms”. Morriss (2002) spends some considerable time identifying the similarities of and differences between the concepts of power and influence. He does this by examining them on three different levels: their grammar, their derivation and their current meaning as given by the Oxford English Dictionary (OED). With regard to the first element he notes that ‘influence’ is both a noun and a verb, whilst ‘power’ is primarily a noun. He doesn’t deny that the verb ‘to power’ exists but he says that it means, “to provide power” and that the verb here only has meaning through the noun. However, “to influence” does not mean, “to provide influence”.
The second difference between the two concepts can be seen through their etymology. "Power" comes from the Latin *potere*, which means 'to be able to'. Influence is derived from the Latin *influer*, 'to flow in', which refers to the ancient belief that a substance emanating from the stars flowed into people and consequently affected them in some way. The two words originated with two very different meanings. Morriss points out that even if the origins were different: meanings of words change and that the two words may now be indistinguishable. He uses the OED to confirm that the two words have indeed changed meaning and that “there is a considerable amount of overlap, but demonstrates conclusively that there also remains several differences” Morriss (2002; 9). He identifies 6 different distinct concepts within both definitions that can be divided into three categories: Two concepts common to both words and two each that only apply to each word respectively. Looking at each of the three categories individually helps clarify the definition of the term I use for this research.

Starting with the influence only category,

1. Influence Only I

Influence as a verb describes how something is affected in a certain manner. Morriss uses the example that “the Pope influences all the Powers and all the Princes of Europe [on this matter]”. This is the sense closest to the original derivation: altering by imperceptible means. By influencing, we tend to mean any process in which someone’s views or ideas are altered by some non-obvious mechanism. To influence is to effect in some hidden, unclear or unknown way.

2. Influence Only II

Influence is also the noun describing an act of influencing. For example, - “the land tax would have comparatively little influence in preventing or retarding improvements”. The
exertion of an action, of which the operation is unseen or insensible (or perceptible only in its effects), by one person or thing upon another: the action thus exercised.

3. Influence and Power Overlap I

Influence can be used in the sense of a capacity. "The position gave him a vast amount of influence which he used for his own advantage". In this sense 'power' can be substituted for influence with only a slight change in nuance. "The position gave him a vast amount of power which he used to his own advantage."

4. Influence and Power Overlap II

Influence here is expressed as a person or thing that exercises action or power of a non-material or unexpressed kind. For example, "he was an influence in the legislature." Here power (or even "force") can be used as a synonym with little change of meaning. "He was a power in the legislature." We see in this and the previous use of words that the small change in meaning relates to the manner in which the outcome is determined. Influence conveys an image of an imperceptible affect on the legislature while power conveys a more forceful and overt effect.

5. Power Only I

We see that the previous "influence" is a control that is not formally expressed. Power has no such limitation. Power is explicitly given or granted; it is formally or overtly expressed. For example, "the president was careful not to assume any of those powers that the constitution had assigned to others". There is no counterpart of this type of power as an influence, as Morriss notes constitutions do not allocate "influences": there is no such thing as de jure influence. There is no separation of "influences" in constitutions.

6. Power Only II
Whilst the operation of influence is generally invisible, no such limitation is placed on the operation of power; hence a power is any capacity to produce effects even if the "powers" are not granted formally.

The above analysis highlights some important issues with regard to our study of policy processes and particularly the role of interest groups. Interest groups rarely have the type of *de jure* power over policy as set out in category 5 above. The power of interest groups to determine policy is seldom formalized. The categories that relate closest with what we observe with regard to interest groups are set out in category 4, where the actor exercises some capacity to have an affect on the outcome in a non-material or unexpressed kind and category 6, where power is the capacity to produce effects. The critical difference here is to recognize the subtle differentiation in use of words - the effecting and affecting of an outcome. Morriss is at pains to point out, that he sees influence as affecting an outcome – if someone is ill; a brandy may affect their condition for good or bad; while power is the ability to effect an outcome i.e. to bring about the outcome desired.

Dûr and De Biévre (2007; 3) in the opening paper of a special edition of the Journal of Public Policy on the "question of interest group power and influence" state, "We use the term ‘influence’ to denote ‘control over outcomes’". We see here that they are clearly interested in actors that can effect an outcome, which is Morriss’s definition of power. However, looking at his typology above, one can see why interest group scholars have continued to use power and influence as synonyms. They are interested in the ability of interest groups to effect political outcomes but they also recognize that interest group power is rarely *de jure* power - It is generally not power that is delineated in constitutions or laws. Interest group power, the ability to effect outcomes, is largely achieved through "imperceptible means".

This, in fact, is what makes the study of interest groups so important. - The fact that their power is rarely formalized officially. It falls between the cracks of officially delineated
powers. Interest groups are not directly answerable to the People. Interest group power is often imperceptible, mysterious, secretive, unaccountable and difficult to scrutinize – that is to a large extent why it is so important that we study interest groups. It further indicates our difficulties in identifying and measuring influence.

In coming to a definition for use in this research, I note that Simon (1953; 501) states,

Like Humpty Dumpty, we will insist that a word means what we want it to mean. But if our aim is to construct a body of science, and if we already have in view the general range of phenomena to be explained, our definitions may be willful, but they must not be arbitrary.

Following this line of reasoning, I will use the term influence, as Dūr and De Biévre set out above, as control over political outcomes. However, Dūr (2008; 120) using Hart’s (1976) categorization states that power

...can be understood both as a property or capability of an actor and as a causal concept (Hart 1976). Depending on which conceptualization is chosen, researchers are pushed either to study the resources or the impact of an actor on outcomes.

I believe as I discuss below using Morriss’s work that a fuller study of influence should involve recognizing actors as resources and using both the broader resource base and the actions of actors as a means to assessing how the outcomes were achieved. Indeed, this was also recognized by Dahl (1957) when he acknowledged that in order for influence to be useful as an empirical concept it has to be bounded and measured using the ‘four concomitant dimensions of power: base, amount, domain and scope’ McFarland (2004; 18)
A further complication that the definition of power throws up is the fact that power has different “faces”. Studying the second and particularly the third face of power are exceptionally difficult. I deal with the recognition and measurement of these issues in the methodology chapter.

**Identifying and Measuring Influence**

As we saw above Baumgartner and Leech noted that the 1950’s and 1960’s were marked by discordant debates on influence that centered on its identification. March (1955; 432) gives us an indication of the importance of the concept when he states “influence is to the study of decision-making what force is to the study of motion – a generic explanation for the basic observable phenomena.” Influence is an abstract and intangible concept and following on from his identification of its importance March (1955; 434) a couple of pages later states that with regard to its measurement “[T]here is lacking not only an immediately obvious unit of measurement but even a generally feasible means of providing simple ranking.” From the above, we see that this relates to the “amount” dimension of Dahl’s 4 criteria.

As Lukes (1974) famously concluded towards the inconclusive end of the above mentioned discordant debate, influence is an essentially contested concept. Further as Stone (2007; 42) notes there is still

...little agreement about what exactly to study or how to go about it. It is also a concept that belongs to many disciplines – political science, sociology, and psychology all accord it special importance. Furthermore, disciplinary differences overlap ideological one.

We can see from the above that it is a value laden but also as Dahl noted a multidimensional concept. This led to sharp differences on how influence was to be
recognized and measured. The sociological school tended to identify power as resources whereas the political science pluralist school insisted as we shall see below that no safe inference of power could be made by solely identifying resources.

Further, as we listed above, Dahl (1957) insists that claims of influence need to be bounded in terms of scope and domain. Indeed McFarland (2004; 6) sees the delineation of the domain as one of the four basic assumptions of political process theory. The domain of an individual’s or group’s influence consists of the other persons influenced by that individual or group. Further the scope of an individual’s influence refers to the matters upon which the individual can influence others. From the above, we see that policy process theorists generally see the political system as being divided into numerous policy areas that should be studied individually. McFarland (2004; 6) further notes “the structure of power and the nature of the process may vary in different policy areas. From this we see that it is important to bound any claims of influence by their scope and domain. As Dahl states (1984; 27) “Any statement about influence that does not clearly indicate the domain and scope it refers to verges on being meaningless”.

To add to the problems caused by the difficulties of precise operationalism, influence, as Marsh notes above, is not easily measured also. Simon (1957; 514) shows that power relations can only be “partially ordered” and consequently, it is problematic to order influence measurements in a cardinal manner. From this we see that there will always be some arbitrariness in any attempt at measurement of influence or ranking the levels of influence. The example discussed in the Viva Voce examination will help to clarify. It is possible to evaluate who the best high-jumper is by finding out who has jumped the highest distance from the ground. In contrast, how do we evaluate the best football player? Is it the number of goals scored? The number of tackles made? The number of goals prevented? Or indeed a particular weighting of some or all of the above. We see in order to assign a weight to each dimension we need to value each dimension and ultimately these values are subjective. This then of course affects the degree of accuracy
with which we can measure concepts like influence. As we noted above influence by its very nature is a value laden concept and consequently, we will assess influence, with caution, on an ordinal scale. As Simon (1957) notes this is a “disappointing result” in relation to measuring influence but this is due to “the phenomena with which we are confronted rather than the kind of quantity that appears to represent them.” As such, it is a limitation that we have no other choice than to accept.

The last dimension of influence that Dahl (1957) identifies is resources as a “power base” but both he and Simon (1953) were at pains to point out that the resource base should not be confused with actual influence. This was the key source of difference between the pluralists and the sociological school. Other scholars (see Polsby 1963) stated that power could only be identified when it was actually observed. Morriss, I believe, helps advance this debate when he identifies power as a “dispositional concept”.

A dispositional property is a relatively unchanging underlying condition. Dispositional concepts (e.g. solubility) perform a specific function in our conceptual vocabulary in comparison to episodic concepts. Episodic concepts report events whilst dispositional concepts refer to relatively enduring capacities of objects. Morriss says there are two fallacies often committed in interpreting dispositional concepts. The first involves confusing the existence of a disposition with its exercise and secondly confusing it with its vehicle.

He recognizes that there is a tendency to reduce potentialities to actualities. This exercise fallacy, he states, has been prevalent in political science mainly due to the operationalism that has been dominant in post-war research. The exercise fallacy in relation to power is the claim that the power to do something is no more than the doing of it; i.e. that talking of someone having power is no more than saying that they are exercising that power. Morriss states political scientists have fallen into this trap generally for two reasons (1) a
Morriss cites, Polsby (1963/1980; 60, 68) as having an oversimplified view of science where Polsby asks

How can one tell, after all, whether or not an actor is powerful unless some sequence of events, competently observed attests to his power? If these events take place then the power of the actor is not potential but actual. If these events do not occur, then what grounds have we to suppose that the actor is powerful? There appear to be no scientific grounds for such a supposition.

Morriss says this is a misunderstanding of the scientific method because if we have observed a sugar lump dissolving innumerable times before, we can claim correctly that a sugar lump is soluble. He also identifies Polsby’s logic as being confused. One of course, cannot tell if an actor is powerful unless some set of observations attest to his power but there is no reason whatsoever why these observations should be the actualization of that power. As he points out, when we go to the zoo we can observe the teeth of the lion, the claws etc.; We do not have to observe the lion using his power to tear someone apart to know that he possesses it.

This leads us to the obvious conclusion that we can never observe a disposition, only a manifestation of it. Indeed, dispositions can forever remain un-manifested. A fragile cup remains forever a fragile cup, even if it never breaks. Sulphuric acid has the power to dissolve zinc even if it never comes in contact with it. The President has the power to dissolve Parliament even if he never does. (Morriss 2002) How then do we observe or measure power?
Some scholars, particularly from a sociological perspective have studied power by cataloguing the various actors' resources and then claiming that these resources themselves were "power". Dahl and others have warned against falling in the "vehicle fallacy" and refused to infer power from an analysis of power resources or bases. However, Morriss asserts,

But there is a big difference between committing the vehicle fallacy by identifying power with resources that give rise to it and acknowledging that resources can be useful evidence in reaching assessments of power...So power, as a dispositional concept is neither a thing (a resource or vehicle) nor an event (an exercise of power): it is a capacity. (Morriss (1987/2002; 19) italics in original

As we mentioned above, Simon (1953; 3) also makes the distinction between the exercise of power and the bases of power. The bases of power are effectively the resources that enable power's exercise. They are a necessary condition. Dahl (1961:226) defines "a resource is anything that can be used to sway the specific choices or the strategies of another individual". He further continues that

A list of resources...might include, an individual's own time; access to money, credit, and wealth; control over jobs; control over information; esteem or social standing; the possession of charisma, popularity, legitimacy, legality; and the rights pertaining to public office... it also might include solidarity: the capacity of a member of one segment of society to evoke support from others who identify with him as like themselves because of similarities in occupation, social standing, religion, ethnic origin, or racial stock. The list would include the right to vote, intelligence, education, and perhaps even one's energy level.

Dür and De Biévre (2007; 5) list the different types of resources specifically that interest groups may have. They include: campaign funding, information on constituency interests, expertise on policy issues, and information on the opinion of other policy makers. They further state "As long as politicians depend on resources either for re-
election or to achieve their policy aims, interest groups may exchange their resources for influence over outcomes.” We also saw above that Sabatier and Weible (2007; 201-03) list resources as (a) Formal and Legal Authority to make policy decisions (b) Public Opinion (c) Information (d) Mobilizable troops (e) Financial Resources (f) Skillful leadership, while Scharpf (1997) sets them out as items such as “physical strength, intelligence or human and social capital...; physical resources such as money or land or military power; technological capabilities; privileged access to information and so on”

Social psychologists French and Raven (1959 & 1965) in the Leadership literature provide a useful typology of power bases. They delineate the bases of power into 6 categories. The first is Legitimate or Positional Power, which is viewed as the formal authority delegated to the holder of the position. It is normally accompanied by various attributes of power such as uniform, office, licence, taxi medallion, white coat etc. The second base is called Referent Power, which relates to the ability of individuals to attract others and create loyalty. This is based on the charisma and interpersonal skills of the powerful individual(s). The next, Expert Power is derived from the individual’s skill or expertise and the need of an organisation for those skills. The fourth base depends on the ability of the person to convey goods of material value to others. This is called Reward Power. The fifth base Coercive Power involves the application of negative influences. These include abilities to demote or withhold awards. Finally, Informational or persuasional power involves the use and control of information: information is needed for decisions; those who have a monopoly on the possession and understanding of certain information have power. Who the information is shared or not shared with, the spin given to it, all convey power on the holders of the information.

Examining the different typologies set out above, we can readily identify similar categories of influence bases that apply particularly in the case of policy processes and interest groups. I categorize them as follows
1. Ability Influence

This relates to the intelligence, ability, capability, leadership capacity, and energy of the person or of persons making up a group.

2. Reward/Punishment Influence

This relates to the ability to impose positive or negative utility on a person or group. The source of this base is, access that the person or group has to money, wealth, credit, gift of position, publicity or appointment and other resources. It also relates to the ability of the actor to engage in industrial action, strikes, protests, blockades, intimidation, violence etc.

3. Social influence

The category relates to the ability of the individual or group to attract the support of others in society. This influence is based on items such as charisma, esteem, social capital or social standing. I measure elements of this type of influence in the present research through the policy image concept.

4. Expert Influence

This derives from the uniqueness of the skills or information that a person or group possesses and the value of those skills to an organisation or society. It is different from the ability base in the fact that “expertise” is a learned skill. It also involves the use and control of information needed for persuasion or decision-making.

5. Positional Influence

This involves the formal or legal authority delegated to a person or group. The “trappings of office” such as uniform, office, official, transport, legal authority etc. can help identify this influence base.
6. Structural influence

Due to the different nature of dissimilar interest groups aims or demands, some will tend to suffer less from mobilization issues than others. As we saw above, those interest groups that seek aims that display to a greater degree the attributes of private goods will tend to mobilize with greater ease and therefore exert greater influence. This base of influence also includes such items as the complexity of the issue. Connolly and Munro (1999; 149) summarize nicely the structural advantages a group may have, while I have elaborated and expanded on some of them. They state that a group may be more influential if it has a small membership; if its policy aims are closer to a private good than a public good; if the membership is homogenous with norms of group cohesion; if the group has low organizational costs and if the payoff for success is obvious and reasonably certain. The complexity of the issue is also an important factor in relation to the ability of the group to manipulate or confuse the public’s view on the matter.

Influence Summary

We see from the material above that influence is a difficult concept to understand, however, following the definition used by Dür and De Biévre and utilizing the clarity brought by Morriss, we can, with caution, draw inferences relating to the use of influence by interest groups and other actors in the policy process. As noted the definition and measurement of influence is an area where there is much disagreement, however, in order to conduct the research and arrive at some form of conclusions, there comes a point where one has to move on. As such, it is important to note that the definitions that I have adopted for this research essentially cohere with those of the pluralist school. Consequently, I have adopted the definition of influence as “control over outcomes” and, as we will see in the analysis of the interest groups and following Morriss and Dahl, the typology of influence resources provides us with a useful mechanism to reach an assessment and deeper understanding of different interest groups influence.
2.6 The Dependent Variable

We are now in a position to delineate the dependent variable. From the general research question we see that it is change in policy outcomes that this research is trying to explain and from our discussion above we see that influence relates to the control of policy outcomes. This indicates that the dependent variable relates to the change in policy outcomes. There are two further basic elements of interest, firstly that the research identifies when a change in policy occurs and secondly, the magnitude of that change. ACT identifies a major policy change on the basis of "policy core" belief change occurring and a minor policy change occurring on the basis of a "secondary belief" change. PET, on the other hand, notes that under the control of the subsystem, only small incremental changes were likely to occur but as the subsystem lost control of the issue a policy punctuation could occur. This would seem to indicate that incremental changes are small changes with a policy punctuation being a large change.

Looking now for a definition of punctuation, we see it is generally described in *Agendas and Instability* in terms of "dramatic changes" or "turbulent disruptions" (ps. 20-21); "important changes in policy outcomes" (p. 37); "long lasting changes in the institutional structures of policymaking (p. 57). A more detailed definition occurs on page 83 Baumgartner and Jones see the change in the equilibrium of the political system arising from the interest group mobilization as leading "to dramatic punctuations in policy outcomes and to long lasting changes in the very institutions of policymaking".

As stated above PET seeks to explain a pattern of policy change. This explains the references to "dramatic" and "turbulent" disruptions when identifying a policy punctuation. As the goal of this research is to understand the causes of policy change where there is evidence of a strong interest group, I take as a policy punctuation, a policy
change where there is a "significant change" in the policy under examination. The ACT definition can help here: It is where a policy changes that significantly goes against a deeply held policy belief of one of the actors.

2.7 Specific Research Questions

I am now in a position to state the specific research questions. Schlager (2007; 297) states, "The theories of agenda and policy adoption cluster together nicely, complementing one another even as the focus on different variables at different scales." In seeking to give as full an explanation of the variation in policy outcomes in various sectors of the Irish political system, I believe that it is necessary to examine the process at the "different scales". PET examines "system level patterns of decisions" however, in order to get a fuller picture and understanding of the factors which effect policy in the Irish system, I believe it is necessary to complement the system level view with a view closer to the ground. Many PET studies do this; in explaining the background to the policy process but they do not do it on a systematic basis. The other theories of the policy process all provide different central variables; ACT utilizes policy learning while IOP see the structure of the actors’ interaction as being key. Neither of these variables I believe are sufficient to answer the central research question posed. However, both at some degree conceptualize the influence of the different policy actors as being worthwhile variables. Given that the origin of this research was motivated to explain how interest groups could possibly influence government, it is essential that influence is included as a variable.

This leads me to three specific research questions: two relating to the broad system level drivers of policy change and the third relating to the micro "subsystem" environment of policy change.

1. Do changes in policy image explain variation in policy outcomes over time
2. Do changes in venue explain variation in policy outcomes over time
3. Do differences in influence explain variation in policy outcomes over time

Having surveyed the literature above, we see that in order to answer the broad research question, it was necessary to extract and adapt from theories that deal with issues that are closely related to the aims of the current research. The IAD framework allowed me to identify the type of research that I was conducting and this directed me towards the existing theories that were most relevant to the aims of the current research. The pilot case study also helped identify the theoretical propositions that were most likely to yield fruitful research. The identification of the “subgovernment” and “macropolitical” systems as locations for identifying variables was enormously helpful. The policy image variable allows me to measure the “outside” influence of the interest group on the policy outcome while the examination of the subsystem allows me to assess influence through a narrower “inside” mechanism. The venue change variable captures a key institutional feature of liberal democracies that curtails influence. I believe that I have now developed a comprehensive set of theories and models within a framework that will allow me to answer the general research question.

2.8 Irish Interest Group and Policy Process Literature

Having set out the specific research questions I now briefly review the interest group and policy process literature that relates to the Irish political system. As Murphy (2010; 333) notes “A recent 600-page study assessing democracy in Ireland mentions interest groups in its index on only two occasions (Hughes et al. 2007)”. This to some degree reflects the amount of work that has been conducted relating to interest groups in the Irish political system. Due to the small size of the country most of the research in the political area has been conducted on broader “main stream” political areas such as the Northern Ireland “Troubles” (e.g. McKittrick and McVea (2008)), the Irish Constitution (Keogh (2003), and Kelly (2003)), and the peculiarities of the Irish electoral system, (Halligan (2014), Benoit and Marsh 2010 and Mair (2008))
In the area of policymaking, research in recent times has tended to focus on the neo-corporatist structure known as “Partnership” that existed from 1987 until it collapsed during the economic crisis in 2008. Hardiman has been to the fore here with her book “Pay Politics and Economic Performance in the Republic of Ireland” (2008) and her recent response to the collapse in the Irish economy “Irish Governance in Crisis” (2012).

In relation to the Irish Interest group literature, Prof. Gary Murphy has been the most productive here, researching lobbying regulation in Ireland in 2011 with Dr. Raj Chari and examining the idiosyncratic nature of lobbying in Ireland with Dr. Conor McGrath. With regard to sector specific interest group studies, these have concentrated mostly on agriculture {Adshead, (1996), Collins (1993), Evans and Coen (2003), Greer (2005), O’Toole (1995)} with one other focusing on general business {McCann (1993)}. There have been other sector specific studies that deal with the impact of interest groups on the sector. For example, Wren’ *Unhealthy State* (2003) and Drumm’s (2011) *The Challenge of Change: Putting Patients Before Providers* help to inform the consultants’ contract case study.
Chapter 3

Methodology Chapter

3.1 Introduction

Empirical policy research has a number of distinguishing methodological issues that need to be recognized and understood. The central purpose of this chapter is to explain a sound research methodology that moves the present research logically from empirical data to theory to conclusions.

The theoretical background to this research was set out in the previous chapter; however, this background needs to be set in the broader methodological context. Crotty (2003; 1) states

Research students and fledgling researchers - and, yes, even more seasoned campaigners - often express bewilderment at the array of methodologies and methods laid out before their gaze.

Crotty further points out “One frequently finds the same term used in a number of different, sometimes even contradictory, ways.” He devotes the first chapter of his book *The Foundations of Social Research - Meaning and Perspective in the Research Process* to offer “one reasonably clear-cut way of using terms and grasping what is involved in the process of social research.” (Crotty 2003; 1) I use Crotty’s approach to set this research within the broader social research structure. Crotty’s scheme sees research as interplay among epistemological assumptions, theoretical perspectives, methodologies, and methods.

Crotty (2003, p.3) describes each of these basic elements as follows;

- **Methods**: the techniques or procedures used to gather and analyze data related to some research question or hypothesis.
• **Methodology**: the strategy, plan of action, process or design lying behind the choice and use of particular methods and linking the choice and use of methods to the desired outcomes.

• **Theoretical perspective**: the philosophical stance informing the methodology and thus providing a context for the process and grounding its logic and criteria.

• **Epistemology**: the theory of knowledge embedded in the theoretical perspective and therefore in the methodology.

Making sense of the "social world" creates many difficulties for the researcher attempting to create legitimate research. At a first cursory attempt at trying to explain anything in the social world, one realizes that the world is an extremely complex place. How do we reach sound conclusions in the face of this complexity? One also quickly realizes that there are many "big questions" to which we do not have a definitive answer; for example, what is the nature of being?; how do we know what we know?; or in what circumstances can a claim of causal inference be made? As Crotty (2003 p. 17) states

> The long journey we are embarking upon arises out of an awareness on our part, that at every point in our research - in our observing, our interpreting, our reporting, and everything else we do as researchers - we inject a host of assumptions. These are assumptions about human knowledge and assumptions about realities in our human world.

George and Bennett (2005; 128) elaborate "Philosophical assumptions are unavoidable in everyday methodological choices at all phases of design and execution of research." The crucial insight here is to ensure that the assumptions made, tie logically together and do not contradict one another. This research seeks to explain policy change in the social world while making appropriate and consistent assumptions.

### 3.2 Ontology & Epistemology

One concept that is missing from Crotty’s framework above that ubiquitously appears in the numerous textbooks and articles on research methodology is ontology. As Crotty (1998; 10) notes,
Ontology is the study of being. It is concerned with 'what is', with the nature of existence, with the structure of reality as such. Were we to introduce it into our framework, it would sit alongside epistemology informing the theoretical perspective, for each theoretical perspective embodies a certain way of understanding what is (ontology) as well as a certain way of understanding what it means to know (epistemology). Ontological issues and epistemological issues tend to emerge together...to talk of the construction of meaning is to talk of the construction of meaningful reality.

The key element to note in the above quote is that ontology and epistemology sit alongside one another and both tend to emerge together rather than one informing the other. Barron (2006) agrees and elaborates that ontology is

A concept concerned with the existence of, and relationship between different aspects of society, such as social actors, cultural norms and social structures. Commentators on the process of social research generally concede that any instance of social inquiry is based upon the dual fundamental principles of epistemology and ontology.

This element according to Crotty (1998; 10) tends to cause much confusion in the literature with many writers conflating and confusing ontology and epistemology. This is one of the factors that have made interpretation of the literature difficult.

Moving now to examine the present research, we see from the literature review that theories of the policy process have generally emerged through the broad “scientific” tradition of positivism. Examining positivism we see that in response to the critiques of Heisenberg, Bohr, Popper, Kuhn, Feyerabend and Lakatos, this tradition has become less strident and less certain in its assertions. As Crotty (1998; 40) states researchers within this camp now,

...temper very significantly the status they ascribe to their findings, the claims they make about them. It is not possible, they have come to recognize, to find some Archimedean point from which realities of the
world can be viewed free from any influence of the observer’s standpoint. They admit that, no matter how faithfully the scientist adheres to scientific method, research outcomes are neither totally objective nor unquestionably certain. They may claim a higher level of objectivity and certitude for scientific findings than for other opinions and beliefs, but the absoluteness has gone and claims to validity are tentative and qualified.

In response to the above critiques, the ontological perspective of “Scientific Realism” emerged. However, as George and Bennett (2005; p136n) note “There are almost as many versions of scientific realism as there are philosophers calling themselves realists”. Chakravartty, (2011) agrees but also clarifies,

It is perhaps only a slight exaggeration to say that scientific realism is characterized differently by every author who discusses it and this presents a challenge to anyone hoping to learn what it is. Fortunately, underlying the many idiosyncratic qualifications and variants of the position, there exists a common core of ideas.

He further notes, echoing Crotty in relation to the confusion in the literature concerning ontology and epistemology that scientific realism needs to be divided into different dimensions depending on the context within which they are discussed. Two of these dimensions are ontology, and epistemology.

Starting with the ontological dimension of scientific realism, Chakravartty (2011) states it “is committed to the mind-independent existence of the world investigated by the sciences”. As Chakravartty, (2011) elaborates, critics of realism

...deny that the world of our experience is mind-independent, even if (in some cases) these positions accept that the world in itself does not depend on the existence of minds. The contention here is that the world investigated by the sciences – as distinct from “the world in itself” (assuming this to be a coherent distinction) – is in some sense dependent on the ideas one brings to scientific investigation, which may include, for example theoretical assumptions and perceptual training.
These critiques, George and Bennett (2005; p129) state, are largely due to the reflexive nature of human agents – “that is, they contemplate, anticipate, and can work to change their social and material environments and they have long term intentions as well as immediate desires and wants.”

They further elaborate that the postmodern and hermeneutic critiques of the realist position say that: language is open to multiple interpretations thus stymieing any claims of definitive explanatory theories; that the results of research can change behaviour; and that the fact that the very nature of the objects under study can change, ensure that “most social generalizations are necessarily contingent and time-bound or conditioned by ideas and institutions that hold only for finite periods.”

This is true, however, George and Bennett (2005 130) exhibit the limitations of these critiques when they state,

Observation is theory-laden, but it is not theory determined. Evidence can surprise us and force us to revise our theories and explanations. Language is subject to multiple interpretations but not infinite ones, and sometimes it is fairly unambiguous. Moreover, important social structures like sovereignty or capitalism clearly are sufficiently recursive and long-lived that recognizable behavioral patterns can usefully be theorized upon for meaningful periods of time.

Clearly from George and Bennett’s quote scientific realism recognizes that knowledge is tentative and always provisional but that there is enough certainty and recursiveness in the world that within parameters claims of relative certitude can be made.

The epistemological dimension of scientific realism “is committed to the idea that theoretical claims (interpreted literally as describing mind-independent reality) constitute knowledge of the world” Chakravartty, (2011). The general view of realists would not see these as claims of absolute truth but would claim that the best scientific theories give a true or approximately true description of both the observable and unobservable aspects of a mind-independent world.
3.3 Theoretical Perspective

As stated in the introductory paragraph to this chapter, empirical policy research has distinguishing attributes. One of these is the choice of type of causal inference relied upon and its position in the broader methodological milieu. To fully comprehend the nature of the type of causal inference used in policy research, it is informative to briefly examine the evolution of the "scientific method".

Following the example of Bacon (1620), the "scientific method" of positivism initially used induction in order to establish its truth claims. Induction is the process whereby a general law is established by collecting empirical data and drawing conclusions from the evidence. However, the major flaw with inductive reasoning is, as Baggini & Fosl (2003; 7) notes "induction involves an inference where the conclusion follows from the premises not with necessity but only with probability".

Karl Popper's route through "this impasse is to substitute falsification for verification at the heart of scientific method" Crotty (1998; 32). In engaging in observation and testing, scientists should try to prove a theory "wrong" rather than engage in the mistaken belief that they can prove a theory "right". A multitude of confirming observations do not prove a theory but one non-confirming observation falsifies the theory. As Popper (1959; 280) puts it "every scientific statement must remain tentative forever"

Popper's insight placed what has become known as the Deductive-Nomological (D-N) model, as developed by Hempel and Oppenheim, centre-stage in the now less confident positivist tradition. The basic principle of the D-N model is "Start with a hypothesis and a set of given conditions, deduce what facts follow from them and then conduct experiments to see if these facts hold and hence whether the hypothesis is true or false" Baggini & Fosl (2003; 42). The obvious advance of this method over induction is that it involves the prior deductive development of theory from first principles and then uses observation to confirm or deny the theory's claims. This form of theory testing has
gained a wide degree of acceptance among the social sciences. George and Bennett (2005; 130)

In order to assert the most appropriate type of causal inference to be used in policy process research it is illustrative to examine the “mechanics” of the D-N model and modes of inference in general. The use of the D-N model, since Popper’s critique, has primarily been associated and used in connection with large-N statistical studies. These types of studies have relied on two particular types of inference that were identified by Hume. The first is the “constant conjunction” type where an inference can be made where there is a correlation between the appearance of the hypothesized cause and the observed effect. The second inference type relates to the “congruity of magnitude” between the purported causes and the observed effect. Here there is a correlation between the magnitudes of the hypothesized cause and that of the designated effect George and Bennett (2005; 130).

However, these sources of inference also point to their shortcomings. Firstly, they cannot distinguish between spurious and causal relations. They equate prediction with explanation. George and Bennett use the example of a fall in a barometer’s reading and an impending storm. The fall in the reading does not cause the storm but the D-N model cannot on its own tell us this. Further information is required. They note however, that a good predictive capability may often suffice to guide decisions. They use the further example of the fact that for a long period tobacco smoking was statistically linked to cancer. However, they note, it was only in recent years that the intervening mechanisms were identified that explain the link. The second shortcoming is that the predictive element of the D-N theory does not predict with perfect certainty the outcome. This leaves the researcher with a choice of specification of predictive standard. Should the standard be 51%, 95% or 99% to ensure that we have a “law”? Again this is a problem, but it still allows the D-N model to be used with some caution.

As Salmon (2006; 166) states
...statistical relevance relations in and of themselves have no explanatory force. They have significance for scientific explanation only insofar as they provide evidence for causal relations...Causal explanation...must appeal to such mechanisms as causal propagation and causal interactions, which are not explicated in statistical terms.

These issues beg the question: Are there other forms of inference, which do not exhibit to the same degree, the above problems? In the quote above, Salmon points in the right direction and further notes that alternative approaches to explanation should demonstrate "a strong identification between causality and explanation". He identifies the "mechanism based approach" that "opens up the black boxes of nature to reveal their inner workings". Simply, to explain an event comprehensively is to identify its cause. This, as we see below, is the essence of the case study method. The present research is essentially about explaining the causal mechanism of how policy changes in the Irish political system.

Examining "causal mechanisms" in more detail, we note that they draw upon the two sources of inference, explained above, that "large-N" statistical models have traditionally utilized. However, they also draw upon two further types of inference identified by Hume: "spatial contiguity" and "temporal succession". Spatial contiguity refers to events that happen in series or in close proximity to one another. The concept was first set out as the Law of Contiguity, by Aristotle as one of his laws of association: it states that things which occur in proximity to each other in time or space can, with caution, be readily associated. In order to draw sound spatial contiguity inferences within the scientific tradition, one must test it against a prior theory. This is noted by Yin (2003; 32) as "analytic generalization" rather than "statistical generalization".

The remaining type of inference - temporal succession - requires that the causal mechanism be explained in temporal order, as it would be expected logically by the pre-specified theory. Events should unfold as the theory predicts. If they do not, then the
theory cannot be upheld. As George and Bennett (2004; 143) state “researchers seeking to explain phenomena via causal mechanisms must acknowledge that their theories are in trouble if the mechanisms of their theories are not consistent with the observed phenomena”. The advantage of these two types of inference is that their strength lies in explaining complex causal mechanisms. The disadvantage is that in using these types of inference, one must open up the “black box” and examine every detail, “in detail”, in order to explain the causal mechanism. This necessity to examine the black box in detail imposes a very considerable data collection burden on the researcher.

However, it also highlights a comparative strength of the case study methodology. When the qualitative parameters of any variable are being decided (whether it is a model building, statistical or case study enquiry); a decision has to be made on how many of the different attributes of the concept should make up the variable. Each attribute in effect can be seen as a different variable. Statistical researchers (using the constant conjunction and congruity of magnitude types of inference) have the incentive to “aggregate variables together into single indices to get fewer independent variables and more degrees of freedom, but the case study researchers do the reverse: they treat variables qualitatively, in many of their relevant dimensions” George and Bennett (2005; 28).

Also, the model building theoretician, due to the strictures of mathematics, is generally forced to keep their modeling parsimonious, in turn, forcing broad aggregation. The case study researcher is under no pressure to aggregate variables into narrow categories. In fact, they are under pressure to do the opposite so as to avoid the charge of equifinality (see below). The “thin fiction” accusation that Maki makes of the formal modeling and statistically driven methodology of recent economics research, does not apply to the case-study researcher. This reflects the different comparative advantage of the different methodologies. As discussed above case studies examine causal mechanisms. George & Bennett (2005; 31) sum it up nicely when they state “Case study methods involve a trade-
off among the goals of attaining theoretical parsimony, establishing explanatory richness, and keeping the number of cases to be studied manageable.”

Due to the necessity of examining many phenomena and contexts in the case study method, the number of cases that can be examined is limited. In statistical studies, the generalization is to the population: the bigger the population, the greater the strength of the claims. If you cannot rely on many “cases” (data points) to cancel non-systematic (contextual) variables then a different standard of validity is required. In case studies, the generalization is to theoretical propositions not to populations. As we noted previously, Yin (2004; 10) states, “in doing a case study your goal will be to expand and generalize theories (analytic generalization) and not to enumerate frequencies (statistical generalization)”.

Returning to the present study, the aim of the research is to explain the causal mechanisms through which policy changes in Ireland. This would indicate that explanation is best served through studying causal mechanisms. This leads us to discuss the choice of methodology most suitable for the research.

3.4 Methodology

In designing a research methodology, the primary concern is to choose a methodology whose comparative advantage best meets the aims of the research. As noted above and as George and Bennett (2004; 6) argue

…that while case studies share a similar epistemological logic with statistical methods and with formal modeling that is coupled with empirical research, these methods have different methodological logics. Epistemologically, all three approaches attempt to develop logically consistent models or theories, they derive observable implications from these theories, they test these implications against empirical observations or measurements, and they use the results of these tests to make inferences on how best to model the theories tested. Methodologically, these three
methods use very different kinds of reasoning regarding fundamental issues such as case selection, operationalization of variables and the use of inductive and deductive logic. These differences give the three methods complementary and comparative advantages. Researchers should use each method for research tasks for which it is best suited.

The aim of the present research is to investigate and better understand the variation in policy in certain sectors of the Irish political system. It seeks to understand why policy changes in the manner it does; what are the mechanisms that cause policy to change?

When the research aim is to explain causal mechanisms, the inferential types of choice are those of “spatial contiguity” and “temporal succession”. The policy process is a complex area of social interaction, where it is difficult with any degree of certainty a priori to separate context from phenomenon. Yin (2003 p. 2) states that “the distinctive need for case studies arises out of the desire to understand complex social phenomena...[it] allows investigators to retain the holistic and meaningful characteristics of real life events.” Policy change is a complex social phenomenon that involves many different actors, in different institutional arrangements over a considerable period of time. The ability of the case study methodology to retain the holistic and meaningful characteristics of the events is thus critical in enabling the researcher to explain fully the causal mechanisms of the policy process and it also allows the researcher assess the various different alternative explanations of the phenomena and assess their “causal” weight.

In order to meet the scientific requirement of deduction, the theoretical aspect of the research must be decided. However, how can a researcher decide on appropriate theory before he has any knowledge of the case? As Yin (2003; 28) states “For case studies, theory development as part of the design phase is essential, whether the ensuing case study’s purpose is to develop or test theory”. However, as George and Bennett (2005; 91) warn
An investigator must demonstrate that he or she has seriously considered alternative explanations for the case outcome in order to avoid providing the basis for a suspicion, justified or not, that he or she has "imposed" a favored theory or hypothesis as the explanation. Such a challenge is likely if the reader believes that case selection was biased by the investigator's commitment to a particular theory or hypothesis.

From the above, we see that it is crucial not to select cases that favour a particular theory or that provide an "easy" test of the theory. This leads us to discuss the selection and delineation of the case(s).

**Choice of Case Studies - Units of analysis**

The choice of unit(s) of analysis, from our discussion above, is obviously an important decision in the research project. Having decided on the "case study methodology" as being the appropriate methodology; it is now crucial to choose an appropriate case or cases that provide an adequate test of the research questions. A further important element to ascertain is the number of cases. Should the research consist of a single or multiple case study design?

Firstly, I set out below the definition of a case, which is ultimately the "unit of analysis". George and Bennett (2004; 17) define a case

...as an instance of a class of events. The term "class of events" refers here to a phenomenon of scientific interest, such as revolutions, types of governmental regimes, kinds of economic systems, or personality types that the investigator chooses to study with the aim of developing theory (or "generic knowledge") regarding the causes of similarities or differences among instances (cases) of that class of events. A case study is thus a well-defined aspect of a historical episode that the investigator selects for analysis, rather than a historical event itself.

Yin (2003; 24) advises that the "selection of the appropriate unit of analysis will occur when you accurately specify your primary research questions." The specific research questions set out in the previous chapter have effectively delineated the "class of events" that this research is concerned with - variation in policy in areas of the Irish political
system where there is some indication of interest group activity. Having identified the “class of events” that are of interest to the research, I now examine the parameters that identify the length of time necessary to get a full understanding of the key variables at play.

Sabatier (2007; 3) referring to the policy process in general states

This process usually involves time spans of a decade or more, as that is the minimum duration of most policy cycles, from the emergence of a problem through sufficient experience with implementation to render a reasonably fair evaluation of a program’s impact (Kirst and Jung 1982; Sabatier and Jenkins Smith 1993). A number of studies suggest that periods of twenty to forty years may be required to obtain a reasonable understanding of the impact of a variety of socioeconomic conditions and to accumulate scientific knowledge about a problem (Derthick and Quirk 1985; Baumgartner and Jones 1993; Eisner 1993)

As we can see from the above, scholars, at the upper end of the scale, view a time period of between ten and forty years as being necessary to gain a full understanding of the policy process. Baumgartner and Jones (1994, [2009]; 49) note “Our approach...uses a much longer time frame than other research on this topic.” They believe that a long time period is necessary to allow for the effects of agenda setting, interest group mobilization, venue change and policy image all to run a full course. I agree with this not only for the above reasons but also because a longer period gives a much fuller view of the impact of influence on variations in policy. As we noted in the literature review Leech (2009; 536), notes that interim measures of influence can be useful in assessing an actors impact over policy outcomes; the long term nature of the case-studies gives a much fuller picture of all policy actors activity and allows a much deeper understanding of their influence over policy. Further, the long-term view also allows a broad viewpoint to be formed on the reputation and actions of different actors. This helps the researcher form a better view the two problems raised by Simon (1953); that of “symmetrical feedback” and of “anticipated reactions”. The long-term case study gives the researcher more “in case” data points upon which to form a view.
The next issue is to ascertain the beginning and end of the case. Different studies of the policy process identify a "critical period" or "focusing event" as being crucial for the emergence of the policy subsystem/policy monopoly. For example, Ceccoli (2003; 157) in his study of the change in drug review policy at the FDA, identifies the early 1990's as the period since "The FDA has dramatically decreased the regulatory review time for new drugs..." The purpose of the study was to discover the forces, which were important in bringing about that change. He identified the increase in AIDS related deaths as a "focusing event" that led to the change and the emergence of the "AIDS lobby" as a force within the subsystem.

Busenberg (2004) in examining the failure of wildfire management policy in the US identifies the period 1905 - 1911 as a

...critical period in the formation of federal wildfire policy. The issue definitions and institutional arrangements established in this period structured US wildfire policy for much of the 20th century...The period was critical because the events therein established an issue definition focused on wildfire suppression and the basic institutional arrangements that would be used to implement that policy.

Wood (2006) examines the politics of public land management in the US. This case study overlaps Busenberg's study due to the fact that a sizeable proportion of public land in the US is under forestry. Wood also identifies the early 20th century as the beginnings of what he calls "the resource extraction subsystem". However, he recognizes that in the 1960's and early 1970's "A number of focusing events occurred during this time period that drew attention to the need for environmental regulations, and raised the profile of environmental groups generally as legitimate participants in the policy." Wood (2006; 4)

The conclusion of a case, in the present research, given that punctuation equilibrium theory is one of the theories that forms a basis for the current research should occur when a "policy punctuation" occurs. This would represent a full cycle of the policy process.
and, in particular, it represents a significant change in the influence structure of the policy area under examination. A problem may arise if no punctuation is found. This would then imply that the case would end at the nearest time feasible to the conclusion of the research. In the current research, the taxi case begins in the “critical period” of the early 1960’s: the key legislation on the issue, the Road Traffic Act 1962 is enacted and the taxi drivers begin to agitate soon after. The case ends in the early 2000’s, after a punctuation occurs in the policy and a new institutional set-up is designed. In the consultant case study, the case begins with the Fitzgerald Report, where the idea of a common contract was first mooted and ends in the late 2000’s in the aftermath of another unsatisfactory revision of the contract.

**Single or Multiple Case Design**

The next element is to decide upon the number of cases for analysis. George and Bennett (2004; 80) warn “Single case research designs can fall prey to selection bias or over-generalization of results”. Yin (2003; 53) agrees and elaborates

The first word of advice is that although all designs can lead to successful case studies, when you have the choice (and resources), multiple case designs may be preferred over single-case designs. Even if you can only do a “two-case” case study, your chances of doing a good case study will be better than using a single-case design. Single-case designs are vulnerable if only because you will have put “all your eggs in the one basket.” More important, the analytic benefits from having two or more cases may be substantial.

Yin (2003; 53) further elaborates that with two cases, you have the possibility of direct replication. “Analytic conclusions independently arising from two cases, as with experiments, will be more powerful than those coming from a single case (or single experiment) alone.” Or more realistically, “the contexts of the two cases are likely to differ to some extent. If under the varied circumstances you still arrive at common conclusions from both cases, they will have immeasurably expanded the external generalizability of your findings”
As stated in the Introduction Chapter, this research is interested in policy where the interest group is evident in the policy process. Following Yin’s advice above, it would be prudent to employ a multi-case design in order to increase the generalizability of the findings. As Yin states, the more cases analysed the broader the conclusions can be generalised. However, as noted earlier, the subject of the research involves examining a considerable amount of data, over a considerably long period of time, which requires an in-depth knowledge of both the literature and the cases ultimately chosen. With this in mind, and the resource constraints on this research project, the maximum number of cases chosen could only realistically be the minimum required for a multi-case design study – two.

The choice of the two cases also has implications for the generalizability of the findings. If as Yin notes, the two cases chosen are two examples of the exact same class of events, then one has direct replicability. This is extremely unlikely (if not impossible) in policy process research. The more likely scenario is that the contexts differ to some extent. If two cases are chosen that are extremely similar, as close to replication as can be found, then the analytic generalizability of the findings is increased. If on the other hand cases are chosen that are different to some degree, this increases the “statistical” generalizability of the findings. The choice is one of balance.

In conducting case study research, analytic generalizability is, as discussed above, where the comparative advantage lies. The issue of statistical generalizability then relies on the number of cases conducted. Since the present research is the first of its kind in the Irish political system, it is important to consider the issue of a broader statistical generalizability. With this in mind, if the two cases chosen represent the divergent ends of a spectrum and common conclusions can be drawn, then the broad generalizability of the findings will be increased. (However, it is important that this generalizability is not over-stated). This begs two questions; what sub-section of the broad area of policy are
the cases drawn and secondly, upon which spectrum should the cases be chosen? The answers are determined by the parameters of the research subject.

This research is concerned with policy where a particular interest group has been active and appears to display some evidence of seeking a “private good” type of policy. Mueller (2003; 473) organises interest groups into three main clusters (a) groups pertaining to a factor of production, (e.g. Trades unions, farmer associations, retail trade associations, industry associations and professional associations); (b) groups who seek to influence public policy, (e.g. peace groups, environmental groups); (c) special affinity groups (e.g. groups based on religious, ethnic, regional, or gender lines).

As discussed in the literature review, not all policy is of equal interest to all people. From Mueller’s classification, we can see that classes (b) and (c) are “broad cause”, “Public Good” interest groups. As we know from our discussion of Olson, these groups are likely to suffer from a lack of mobilisation due to the “public good” nature of their cause. These groups are not of interest to the current research. The remaining class - the groups pertaining to a factor of production, suffer to a far smaller degree of the problem of “free-riding” in relation to mobilisation, hence their capability for regulatory capture. The first cluster of Mueller’s typology is the focus of the present research.

Now that we have recognised a subject “class” of interest group for the research, it is necessary to delineate the spectrum upon which the particular policy area is chosen. This relates directly to the specific research questions. Firstly, if policy image and multiple venues are major variables in the determination of policy change in the Irish political system, what are the other plausible factors that can possibly impact on these variables? In the literature review, I specified as an alternative explanation for policy change; the influence of interest groups on the policy process. Different groups may have differing levels of influence due to their “power resources” as set out in the literature review above. As stated in the introduction chapter, this research is interested in policy where the interest group is evident in the policy process. In order to test, the influence of
interest groups on the policy process, it is explicative to choose two case studies that appear to have very different power resources.

The above alludes to a serious issue when trying to explain complex processes - this is "the problem of competing explanations". As we saw in the literature review chapter there are numerous competing explanations of the policy process.

George and Bennett (2004; 92) highlight the problems

Sometimes competing explanations can be equally consistent with the available historical evidence; this makes it difficult to decide which is the correct explanation or, alternatively, whether both interpretations may be part of an overall explanation, - i.e., whether the outcome maybe overdetermined. Another possibility is that each of the ostensibly competing explanations in fact addresses different parts of a complex longitudinal development. In such cases, the task of the investigator is to identify different turning points in the causal chain and to sort out which independent variables explain each step in the causal chain

At the outset of this research I was of the simple view that certain interest groups would try to influence the regulation of their market so as to gain an advantageous position. I further believed that politicians would grant these interest groups, the advantageous position because it was in the politicians' self-interest to do so. I conjectured that this advantage would become more and more untenable over time because a market that was politically "hamstrung" would be unable to respond and change unlike a market that was properly designed. However, looking back now, I had not one iota of an idea of how I would answer the research question. I assumed that Economics "rent-seeking" or "regulatory capture" literature would provide such a framework. I was way off the mark.

In my early search for a framework, I used the IOP framework to analyse the evolution of taxi policy from the late 1970's until the year 2000. In conducting this research, it appeared that the level of public attention of the policy issue was an important "variable" in bringing about policy change. Reading more deeply into the literature, I discovered
punctuated equilibrium theory, which promotes as a variable the concept of "policy image". George and Bennett (2004; 83) state

Often researchers begin their inquiry with a theory in search of a test case or a case in search of a theory for which it is a good test. Either approach is viable, provided care is taken to prevent case selection bias and if necessary to study several cases that pose appropriate tests for a candidate theory once one is identified.

Having done this preliminary research, good methodological practice generally precludes the use of a case that was used in the development of the theoretical aspect of the research. However, it is permissible that, a broader case containing the original material can be used if new data is brought to the case. This involves collecting new data concurrent and consecutive to the initial case. The consecutive data was collected by broadening the time length of the taxi case to include a further two previous decades and subsequent half decade of the period of taxi policy previously examined. The concurrent data involved assessing the "influence", "policy image" and "policy venue" variables of the taxi case and by collecting further data through, interviews and archival research.

Secondly, in order to counter charges that the cases were chosen to suit a "favoured theory", it was necessary to select a case that would provide a "tough test" of the theory. The medical consultants' contract case provides such a test, as at the time of choosing, despite an apparent negative policy image and several renegotiations of their contract, no major change or punctuation in policy has occurred. It was also necessary to provide a broader alternative explanation to PET in order to explain the paucity of change in the medical consultants' case. Given, that nearly all the alternative theories postulated some conception of "influence" as a variable, I considered it appropriate to include it as an alternative explanation. Further, the fact that medical consultants' on cursory analysis display evidence of certain influence resources as opposed to the taxi drivers, bolstered their case for inclusion as the alternative case.
The two cases chosen examine changes in policy in the working conditions of different professions, that of medical consultants and taxi drivers. The cases both take place within the Irish political system during relatively the same period. The cases are sufficiently different in context, that if I can arrive at common conclusions the strength of the analytic and statistical generalizations will be increased.

Case Comparison

As we see from the discussion above, the choice of cases inherently involves the comparison of the cases. George and Bennett (2004; 67) promote the method of “structured focused comparison” of cases as a means “to study historical experience in ways that would yield useful generic knowledge”. They further explain that

The method is “structured” in that the researcher writes general questions that are asked of each case under study to guide and standardize data collection, thereby making systematic comparison and cumulation of the findings of cases possible. The method is focused in that it deals only with certain aspects of the historical cases examined.

As we will see from the discussion below, on the comparative method and particularly, the controlled comparison method, the ideal standard is that the cases should be similar in every respect but one. Examining the literature and thinking in the area of the comparison of cases, we see that the methodological thinking developed in the “comparative methods” area of political science can inform and guide the present research. George and Bennett (2004; 151) explain the background:

Comparative methods involve the non-statistical comparative analysis of a small number of cases. Perhaps the best known and still dominant variant of comparative methods is controlled comparison, the study of two or more instances of a well-specified phenomenon that resemble each other in every respect but one.

The problem here is that it is practically impossible to find two cases “that resemble each other in every respect but one”. This impossibility has led the scholars in the
comparative methods field to develop strategies and to go about their research in a manner that minimizes the problem rather than eliminating it. The comparative method is based on a “logic of elimination” identified by Mill (1843) in *A System of Logic*, where he discusses the “method of agreement” and the “method of difference”. George and Bennett (2004; 156-7) discuss the problems of the comparative method in detail; however, from the point of view of this research it is sufficient to note that they (2004; 157) identify the non-identification of variables and the issue of equifinality as being the major challenges to the validity of comparative studies.

The hypothesizing of alternative explanations is the recommended safeguard against the first issue however “equifinality”, the situation “when different instances of the phenomenon under investigation have alternative determinants”. They assert equifinality is present in many social phenomena. “…the same type of outcome can emerge in different cases via a different set of independent variables”. It is a major issue with small n-studies that the same outcome can be reached in two or more cases that have different explanatory variables. The problem of equifinality, is flagged by George and Bennett, as being a major issue in case study research: the means of overcoming it, they suggest is the method of “Process Tracing”.

Process Tracing is essentially the method of identifying all the pertinent variables of a case and then following the evolution of those variables to the outcomes of the case. As such George and Bennett (2004; 161) identify process tracing as being a route out of the equifinality problem. Process tracing is essentially a “within case analysis” method. It is the method best placed to identify cases of equifinality since it identifies and examines all areas of a case and seeks to explain and connect them through spatial contiguity and temporal succession. They (2004; 179) identify Collier as stating “within case comparisons are critical to the viability of small-n analysis”. The essential aspect of process tracing is that you compare the different explanations of a case and then make a judgment, based on empirical evidence as to which provides the best explanation of the causal mechanism.
As we see from the discussion on the comparative method above and particularly the controlled comparison method, the cases should be similar in every respect but one. The choice of cases in the current research can be said to obey the above criterion. Both cases, take place in the Irish political system; both cases are analysed over approximately the same time period, which means that all the economic and social forces impacting on the cases would be relatively the same; both cases examine an identifiable group negotiating their employment conditions with the Irish government. The “one” difference of course is that they are from different sectors with significantly different influence resources. In order to increase the generalizability of the research I believed that it was pertinent to choose two different professions that where sufficiently different from each other with regards to their power resources. This would allow me to draw stronger conclusions on the policy image and venue change variables if despite the differences in influence the theory still held. Further, any similarities or differences that emerged can then be judged in conjunction with these differences in resources.

Summary

At this stage, and before I move on discuss, the methods to answer the specific research questions, it is advantageous to draw the above discussion together. This research examines policy change within the broad scientific realist, ontological and epistemological framework. In order to grasp the factors that cause policy change, I believe the best means of obtaining as full an explanation as possible, of this area where context is so important, is to conduct a longitudinal “two-case” case study. The period under investigation allows us to understand the evolution of the policies in the areas and the carefully chosen two different cases help broaden the conclusions of the case study.

3.5 Methods

This section of the methodology chapter describes the techniques and procedures used to gather and analyze the data necessary to conduct the research. Having set out the general research question in chapter 1, this allowed for the identification of the relevant literature,
the specification of the specific research questions and enabled the choice of the case-study methodology.

In order to get the full context of each case study, the background “story” of the policy area must be investigated and populated; the main players identified; the key events recognized and organised; and the variables identified and operationalized. George and Bennett (2005; 89) state “This preliminary step of immersing oneself in the case, known as “soaking and poking” often leads to the construction of a chronological narrative that helps both the researcher and subsequent readers understand the basic outlines of the case.” This was done firstly in the taxi case and subsequently in the medical consultants’ case. It was achieved through the use of documentary sources such as newspaper articles, government and interest group reports, parliamentary debates, interest group statements, books on the subjects and political biographies. In conjunction with the construction of the background story, as we saw in the literature review chapter, I also used theoretical propositions to set out the specific research questions.

1. Do changes in policy image explain variation in policy outcome over time
2. Do changes in venue explain variation in policy outcome over time
3. Do differences in influence explain variation in policy outcome over time

3.5.1 Specific Research Questions 1 & 2

As noted in the Literature Review, specific research questions 1 & 2 are interconnected. The policy image variable has two effects on the policy process. Firstly, when there is a surge of interest in the policy issue and a consequent change in tone, we can expect some degree of policy change. Secondly, a change in the policy image variable should bring about venue changes and consequently, more policy changes and ultimately a large scale, policy punctuation. These specific research questions identify policy image and policy venue as the key variables of investigation.
Starting with "outside" influence policy image, we see that it must firstly be precisely defined for the purposes of this research. It is concerned with policy change in areas where there is some initial evidence of a visible interest group - using Baumgartner and Jones terminology, where there appears to be a "policy monopoly". We saw in the Literature Review Chapter, that according to Schattschneider, the subsystem attempts to control or "privatize" the information in the public domain. It tries to dampen down and control the information relating to the topic. The interest group is in a battle to control the "policy image". In order words the policy image can be seen as a measure of the influence of the interest group on the broader political system.

The policy image is in fact the broad set of arguments that the policy monopoly uses in an attempt to win the "hearts and minds" of the broader macropolitical system. The policy activists outside the policy monopoly try to counter these arguments with their own, in turn, trying to convince the public that their way is the better way. These arguments essentially "constitute the building blocks of framing" Baumgartner et al. (2008; 106). They (2008; 106) further elaborate,

In the political science literature on framing, scholars have used various techniques to study how an issue, or a particular text addressing that issue is framed. Generally, scholars agree on more or less the same definition of framing: the presentation or discussion of an issue from a particular viewpoint to the exclusion of alternate viewpoints.

As we see from above, framing concerns the development of a systematic description of the material under analysis. It involves the segmentation of the material into different categories or "frames". It puts a structure on the material that allows analysis. The structural decisions in delineating frames involve making choices that accentuate some material to the detriment of other material. This structural decision involves the building of a coding frame. Coding frames have different levels of complexity – this is inherently connected to the research question. As we saw in the literature review, PET research seeks to explain and understand the pattern and nature of policy change. This leads to the construction of a complex coding frame that seeks to trace the evolution of the different
"arguments" or "frames" that are used to try and overturn the status quo. PET closely examines the "negative and positive feedback" because they have different dynamics. As Baumgartner and Jones (2002; 13) state

The world of positive feedback processes is changeable, fickle and erratic when compared with the stable and predictable outcomes associated with negative feedback processes.

An example of a complex coding frame can be seen in the study of the death penalty. Dardis et al (2008) develop a sophisticated coding frame with 65 different frames. This reflects the complexity and richness of the research question which is "How has media coverage and framing of the death penalty evolved since 1960, and are there any particular patterns or shifts over time." Or for example, in Rose and Baumgartner's (2013) study of "Framing the Poor", they develop a coding frame with 5 broad frames and "many subframes". Rose and Baumgartner's aim is to understand how different arguments or frames affected policy, in this case towards the poor.

In the current research, I am interested in how policy is determined in areas where there is initial indications of a strong interest group. In relation to the specific research question, it concerns whether, the "policy image" the interest group wishes to promote is the dominant one in the macropolitical system. The research question here fundamentally asks; is the view in the macropolitical system pro or anti the view of the interest group and does this have an impact on the variation in policy outcomes. As Schattschneider (1975; 2) states, "the outcome of every conflict is determined by the extent to which the audience becomes involved in it". In the current research, this requires a variable that measures the level of involvement of the audience in the macropolitical system and secondly, their view on the position of the combatants. In other words a "simple coding frame" that indicates the extent of macropolitical involvement and the tone of their view on the issue is what is required. The policy image variable in this case has two elements, the salience of the issue in the macropolitical arena and the tone of that salience in relation to the interest groups' position.
To measure this change in policy image requires the collection of data from sources that will reflect the "policy image" that prevailed in the various arena of importance. This requires the use of the research method of content analysis. Policy image change has been analyzed using the method of content analysis in various different policy process case studies. It is a method of analysis, of documents and texts, that seeks to quantify content in terms of predefined categories, in a systematic and replicable manner.

In order to assess policy image change, it is essential to establish; the "content" that conveys a "positive" or "negative" policy image towards the interest group's position and then to establish if that image changes over time and the direction of that change. The two case studies under consideration both occur within the Irish political system and both attracted attention in several different media on a national scale. To establish the policy image over the period of analysis it is necessary to extract from this media the data that reflect that policy image and its variation. We discuss the extraction and grading of the data below.

As noted in the literature review, "Policy venues" are the "institutional locations where authoritative decisions are made concerning a given issue" Baumgartner and Jones (1993; 32). The identification of decision-making venues is easily done during the case studies, although as we will see, particularly in the consultant case study, whether these changes are "authoritative" are a matter for the research outcomes.

3.5.2 Specific Research Question 3

This question identifies influence and policy change as the key variables. I shall firstly delineate the methods for ascertaining influence. I will then outline the data collection issues.
Looking now at the methods of influence analysis, we see that the policy that prevailed and changed throughout the period of each case study; it is believed reflected, amongst other things, the changing influence of the various actors within the policy system. Policy is about decision-making, and as we noted earlier March (1955; 432) states “influence is to the study of decision-making what force is to the study of motion – a generic explanation for the basic observable phenomena.” Despite its obvious importance, the operationalization and measurement of influence has been mired in controversy and uncertainty. Dür (2008; 559) notes in relation to the EU “because of the difficulties inherent in measuring interest group influence, it has been addressed by only a small number of studies” however, he further adds that “an analysis of interest group influence remains of crucial importance to the understanding of the political processes.”

The problems of influence operationalization and measurement quickly become obvious once one tries to attempt it. Influence is an abstract and intangible concept that further suffers from the fact that in many cases the parties involved may not be totally honest, be sufficiently precise or possess a reliable memory. Also complete information on any particular case is very difficult to achieve. Further March (1955; 434) almost immediately identified following his statement above “[T]here is lacking not only an immediately obvious unit of measurement but even a generally feasible means of providing simple ranking.”

However, Dür (2008) recognizing the inherent limitations says, “although measuring interest group influence is difficult, it is not impossible. Analyzing the impact of interest groups on political outcomes is not substantially different from other attempts at establishing causality.” He (2008) further lists three major obstacles that have been recognized in the measurement of influence

1. The existence of different channels of influence
Measuring influence is made difficult due to the fact that it can be exercised through several different channels. Hague and Harrop (2010; 234-235) set out three “channels of influence”. These are (a) direct interaction with people in policy-making institutions, (b) indirect influence through political parties and (c) indirect influence through public opinion. The existence of different channels does add complexity to measuring influence. However, with a sufficiently broad gathering of evidence and a long term case study this complexity can be reasonably overcome. Each of the above channels can be investigated through the appropriate application of different methods of data collection. Further, the second and third “faces of power” provide obstacles to assessing influence. With regard to the “second” face, a long term case study allied with the process-tracing method can expose agenda control in a policy area. The “third” face alludes to the fact that a powerful actor may be able to prevent weaker actors from recognizing their own interests. This is indeed a difficult concept to measure and the problems should not be underestimated, however, to some degree, the statements of interest group’s and their attempts to control the policy image can be seen as attempts to influence the weaker parties’ views against their own fundamental interests. The measurement of the policy image variable and the use of the process tracing method can to some degree overcome this issue.

2. The occurrence of counteractive lobbying

Often, once an interest group moves to influence policy; it provokes an opposing interest group to respond. Who has influence? Even if an interest group fails to move policy in its preferred direction, it may have stopped policy moving further in the other direction. This counteractive lobbying can be done in secret. However, by conducting interviews; supplementing that evidence with documentary analysis, and conducting a long-term case study, a more complete and thorough picture of the events can be constructed and from this it is possible to come to a reasoned judgment.

3. The different points at which influence can be wielded in the policy process
Leech (2009; 541) cautions against focusing on a single stage of the policy process; As discussed in the literature review, a policy may not even be considered due to agenda denial. It can be squeezed of life before it even gets to be discussed. The longitudinal case study analysis of policy image and concurrent use of the process tracing method helps us overcome this problem. Further, lobbying of officials is often done privately. If something can’t be directly observed, it is difficult to measure. However, records of meetings with officials are kept; key officials and interest groups can be interviewed; and also file-keeping in government departments provides a trail of evidence.

Examining now the methods of measuring influence we see that Đur (2008) identifies “three broad methodological approaches”. These are process-tracing, assessing attributed influence and gauging the degree of preference attainment. I will discuss these three methods below

**Process Tracing**

George and Bennett (2005; 206) state that the process tracing “method attempts to identify the intervening causal process – the causal chain and causal mechanism – between an independent variable (or variables) and the outcome of the dependent variable.” Simply, process tracing seeks to uncover the steps by which “causes affect outcomes”. Đur (2008) further explains that in assessing influence through process tracing, the researcher (1) scrutinizes groups’ preferences, (2) their attempts to influence policy, (3) their access to decision makers (4) the decision-makers responses to these attempts, (5) the degree to which groups’ preferences are reflected in outcomes and (6) the groups’ statements of satisfaction or dissatisfaction with the outcome.

The strengths of the process tracing method are due to its small-n nature; it can delve deeply into the case in question, which allows for rich explanations and it also allows the researcher to consider different rival explanations. A further advantage, again, follows
from the method being small-n; as semi-structured interviews are helpful in backing up documentary analysis to gain a fuller insight, they also allow the researcher to probe the interviewee with challenging questions. Dur (2008)

Process tracing also has a number of issues; firstly, it is difficult to collect all the necessary data to adequately cover all the steps of the decision-making process. Can a full and complete causal chain be constructed? Secondly, due to the process tracing method being to some degree reliant on interviews, it assumes the methodological issues that interviews have as a method of data collection; i.e. poor, inaccurate, self-serving or misleading recall of events etc. However, documentary evidence and other interviews can provide an alternative source of facts. The third problem relates to the lack of a yardstick associated with process tracing. What metric of measurement can be used? However, as we have defined influence, like Dur, as “control over outcomes”, his typology helps give us some measure of influence, further the development of the influence resource base typology in this research helps to give us a deeper understanding and assessment of that influence. Fourthly, one must be careful in attributing influence to those with noticeable activity. Too much weight can be given to the level of interest group activity in making inferences of influence. Activity is not influence. Finally, what is an advantage can also be a disadvantage, due to the heavy-duty data requirements of process tracing; it is limited to small-n studies

The “Attributed Influence” Method

First, developed by March (1955), this method relies on the assessment of an actor’s influence either by self-assessment, peer assessment or assessment by informed observers. The major advantage of this method is that respondents are likely to take into consideration all channels of influence. The disadvantages of this method are due to using human estimation as the measure of assessment. How accurately can the different observers gauge the influence of the subject? Polsby (1960) further identifies that this method, in reality, assesses perceptions of influence rather than actual influence.
Assessing the Degree of Preference Attainment

In this method, the outcome of political processes is compared to the ideal points of the different actors. The basic premise of the method is that the distance between the outcome and the ideal point of an actor reflects the influence of that actor. The major problem here is that other forces could be acting to bring the outcome closer to or further from the subject actor's ideal point thereby under or over stating their implied influence. The strongest advantage of this method is that it can detect influence even if nothing else appears to happen. It does not have to examine each channel of influence, uncover secret or discreet lobbying, or make an assessment of structural power. The first disadvantage of this method is that it can be difficult to discern the different players' preferences. In some cases this can be relatively straightforward while in other where strategic issues are important, some players may be unwilling to reveal their true position. Secondly, it can be difficult to control for alternative factors explaining the policy outcome. Thirdly, as this method only observes the outcome, it can be difficult to build a causal explanation of influence using this method.

Brief Review of Methodologies used in Influence Studies

In light of the previous section, it is informative to briefly review the execution of the methods of the different influence studies. The studies that use the preference attainment method tend to use a large-N cross-sectional sample size, for example, Kluver (2011) studies “lobbying success across 2,696 interest groups and 56 policy issues”, while the research that uses process-tracing and “attributed Influence” examine a small number of cases studies. For example, Důr and De Biévre (2007) examine “two in-depth case studies” while Michalowitz (2007) consists of three case studies.

Lowery (2013; 5) identifies the problem of identifying the counterfactual as an issue with influence studies. “In research on lobbying, we all too rarely specify what would have happened in its absence” He further states that in order to plausibly do this, “we must
either compare similar decisions in which a similar lobbying tactic or strategy was applied or identify a prior position of the target of influence.” With regard to comparing similar decisions where similar lobbying tactics were used, he states that “most studies of lobbying focus on a single decision…which can tell us little about what might have happened in the absence of lobbying”. With regard to the identification of the prior position he states that it is “not readily available for most decisions”.

With regard to the choice for this research it is important that this issue is recognized and as far as possible overcome. We examine this below

Choice of Method

Having reviewed the various methods of assessing influence above and recognizing, the problems inherent in capturing the full conceptualization of influence as a variable, I have, as recommended by Dür (2008b; 15) decided to utilize “methodological triangulation” and chosen two methods of influence assessment. I have chosen process tracing and the attributed influence method as the most suitable for the present research. I have not chosen the preference attainment method because it is not particularly suited to a long term analysis that seeks to build an explanation of why decisions occur.

The process tracing method is chosen because its advantage lies in seeking and providing the deepest and richest inferences that can be made in the policy process area. Its comparative advantage lies in utilizing the “spatial contiguity” and “temporal succession” inference types essential for understanding a complex phenomenon like influence. Its comparative advantage over the other methods lies in understanding long term processes. To bolster the process tracing, I have chosen the attributed influence as the second method. It has traditionally been conducted through administering surveys; however, due to the small number of actors in the current cases and due to the cases long term nature, surveys were believed to not be a particularly useful means of data collection. I have chosen instead to ask interviewees their assessment of particular actors and group’s
influence. This has the advantage of allowing the researcher to ask key first-hand actors in the policy area their assessment of the variable. Further, they may be able to provide insights that cannot be gleaned from documentary analysis and further deepen the understanding of the case. Disadvantages of this method are that it is particularly reliant on the participants’ memory and that key players may no longer be available due to death emigration etc. In order to overcome this problem in the current research I have used, where possible assessments of influence that were available through documentary resources. Further, data for both the attributed influence method and the process tracing method can be collected simultaneously in interviews with key players and examining documentary data.

A key advantage of the above research design is that due to the long term nature of the case studies, it allows a view of the development and emergence of the issue. It also allows the reader to assess the development of the interest groups’ preferences, their use of tactics and the impact that context exerts on outcomes. This to a large degree allows an assessment of the counterfactual of what would have occurred in the absence of interest group activity.

**The Assessment of Influence Variability**

As noted above, I define influence, in line with Dur and De Biévre (2007; 3) as control over outcomes. They further note that “A political outcome can come in two guises: the official position taken by public authorities or the actual implementation of that policy”. This is important in relation to this research where we shall see later that the lack of implementation of policy is an important element of one of the case studies.

Examining now assessment of different levels of power we see that Leech (2009; 536) notes that “At the most basic level, influence over public policy is often defined to mean the power to determine outcomes – either to change a public policy or to defeat efforts to
have policy changed"...This, certainly, is the gold standard of influence". However she cautions,

...one of the problems with this way of measuring influence is that it lacks variability - influence tends to then be conceptualized as a yes-no, up or down proposition. We could instead measure interim interest group success; for example, interest group success in changing the way an issue is talked about, interest group success in gaining access to members of government, interest group success in getting an issue on the agenda, or interest group success in getting members of government active on the issue. The assumption is, of course, that interest group success at these stages makes success at the end stage possible.

As we see above in Dür’s typology for assessing influence, the researcher should scrutinize groups’ preferences, their strategies for influencing policy and their access. When scrutinizing the groups’ preference the researcher can discover which goals are interim and which key policy aims of the group. An assessment can also be made of the level of causal effect of their strategies on outcomes.

In this research, I assess influence on three levels. A group has “High” level influence when it obtains and maintains its key stated policy goal. “Medium” level influence occurs where the group is successful in getting their issue onto the agenda of third party actors and also the achievement of interim goals. A “low” level of influence occurs in the situation where the group struggles to get either its issue onto the agenda or it cannot even achieve interim goals.

As noted in the literature review, group resources are not manifestations of influence, but they can be used in making assessments of influence. I delineated a typology of influence in the literature review and I use it in the case studies in making a further assessment of the individual groups’ influence. This should allow a different perspective to be taken on an assessment of influence and should provide a deeper and more nuanced perspective on understanding role of influence in the policy process.
3.6 Data Collection

Having moved down through the various aspects of Crotty’s schema as set out at the top of the chapter, and having explained the techniques for analyzing the data; we are now at the point of delineating the techniques and procedures used to gather the data. Yin (2003; 83) sets out three “overriding principles” that “are important to any data collection effort in doing cases studies”.

These principles are

1. The use of multiple sources of evidence (i.e., two or more sources of evidence that converge on the same set of facts or findings)
2. The keeping of a case study database
3. A chain of evidence that links the questions asked, the data collected and the conclusions drawn

Examining the first principle we see, Yin (2003; 83) states “Evidence for cases studies may come from six sources: documents, archival records, interviews, direct observation, participant observation, and physical artifacts.” Due to the policy process nature of the case studies, there is little evidence to be collected by the way of direct observation, participant observation or the collection of physical artifacts. Also, Yin (2003; 88) defines archival records as being items such as documents showing; the number of clients over a period of time; organizational charts and budgets; maps and census records etc. These sources of evidence, while not completely irrelevant to the present research, do not form any significant part of it. It should be mentioned, however, that the Irish National Archives and the Dublin City Archives were consulted but this was in relation to documentary evidence, which is discussed below. The remaining sources of evidence on Yin’s list are (1) documents, and (2) interviews. These sources make up the vast majority of the data in the current research. I will discuss below the pertinent advantages and disadvantages of each source of evidence as it relates to the present research.
In the analysis that follows, I set out an explanation and analysis of documentary and interview data collection. The data collected in this manner is used to populate the background story of the individual case studies and to provide data to answer the "influence" specific research question. I subsequently then discuss the collection of data for the policy image variable.

3.6.1 Documentary Data Collection

Yin (2004; 85) states that "Except for studies of preliterate societies, documentary information is likely to be relevant to every case study topic" and this is certainly the case with the present cases studies. He (2004; 86) further lists a comprehensive set of documents that may be useful to the case study researcher. They are

- Letters, memoranda and other communiqués
- Agendas, announcements, and minutes of meetings and other written reports of events
- Administrative documents - proposals, progress reports, and other internal records
- Formal reports or evaluations of the same "site" under study
- Newspaper clippings and other articles appearing in the mass media or in community newsletters

In the present research, practically all of, as can be seen in each of the case study chapters, the above sources of documentary evidence are used. The main sources of documents are newspapers articles; Government memoranda, reports and letters; correspondence between Government departments; and between Government, interest groups and citizens.

Scott, (1990; 6) in assessing the quality of documents as a source of evidence, recommends four quality assessment criteria of (1) Authenticity, (2) Credibility (3) Representativeness (4) Meaning. Looking at each criterion separately, we see that: authenticity asks is the evidence genuine and of unquestionable origin; the credibility criterion inquires as to whether the evidence free from error and distortion;
representativeness asks is the evidence typical of its kind, if not is the degree of its atypicality known; and meaning asks is the evidence clear and comprehensive?

In relation to the present research, we see that in relation to “Authenticity”, the main sources of data are national newspapers, Dáil reports, academic and sectoral reports, and national and city archive material. Sources are cross-referenced with another source to ensure soundness. The question of forgery of documents is not a major consideration in the present research. With regard to “Credibility”, claims of politicians and interest groups are often distorted in a self-serving manner. This is central to the examination of the question of policy image, influence and ultimately policy change and is discussed widely in the case chapters. With regard to “Representativeness”, the evidence is gathered from a wide range of different sources. Where evidence is available from only one source this is noted and due caution on inferences is made. In relation to clarity and comprehensiveness, the essence of the “Meaning” criterion, the data for the present research is vast and deep. Evidence has been collected from many different sources and this has allowed the construction of cases that are both comprehensive and clear. Where difficulties arise, these have been noted.

Yin (2004; 86) elaborates on the strengths and weaknesses of documentary sources of evidence that complements and expands Scott’s criteria

The strengths listed, are that documents are

- Stable - can be reviewed repeatedly
- Unobtrusive - not created as a result of the case study
- Exact - contains exact names, references and details of an event
- Broad coverage - long span of time, many events and many settings

The weaknesses are listed as

- Retrievability - can be low
- Biased selectivity - if collection is incomplete
- Reporting bias - reflects (unknown) bias of author
- Access - may be deliberately blocked

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Examining the above, we see that the fact the documents were created for purposes other than the research in question, give safety to challenges that the evidence is biased in reaction to the research. The ability of the present researcher and others to review the documents helps significantly towards attaining accuracy and enables replicability. All the documentary evidence used in the present research is available publicly and is listed in the case study database. The exactness of documents and their broad coverage of the cases enable the construction of a time-line that helps significantly in relation to making inferences using temporal succession and spatial contiguity.

Looking at the disadvantages, we see that retrievability of documents can be low. This can occur due to loss or destruction of documents over time. Another issue relates to the fact that organisations can refuse access to documents completely or, particularly in the Government's case only allow access after a certain period of time (30 years). However, the effects of these issues can be minimized and circumscribed to some extent, by using different sources of documentary evidence such as newspapers articles, Dáil records, academic studies etc. that are publicly available and by further supplementing them with interview data. Policy, in an open democracy, is almost by definition open to scrutiny at quite an in-depth level. This has helped establish the facts in the present research. A further issue is to do with the fact that because only a portion of the documents may be available, particularly if this relates to “one-side” of a matter of contention then the evidence may be biased. There can also be a bias were the author of the document may be biased in an unknown manner by the researcher or where the document is inaccurate. The use of several different sources of evidence can safeguard against this and is utilized in the current research.

As the case studies examine the Irish policy process, the background story is assembled and the process tracing method utilized using data drawn from (a) documentary sources, for example, newspapers, Dáil and Seanad reports, academic studies of each industry, and sectoral policy reports commissioned by both government and interest groups and (b) archival analysis and (c) from interviews with key players.
3.6.2 Interview Data Collection

The interview is a key source of data for case study analysis. Harrison (2001; 90) efficiently asserts the complementary benefits of using interviews in conjunction with documentary evidence and the method's comparative advantages as a data collection method when she states that

Interviews facilitate our ability to glean information not recorded in documents elsewhere or indeed allow us to develop our interpretation of existing documents, relevant events and personalities.

As a data collection method, the "type" of interview ranges along a spectrum from one that is nearly completely unstructured to one whose questions are so precisely framed that it closely resembles a survey. The choice of interview type depends on the aims and data needs of the research. Yin (2003; 89) states

One of the most important sources of case study information is the interview...The interviews will appear as guided conversations rather than structured queries. In other words, although you will be pursuing a consistent line of inquiry, your actual stream of questions in a case study interview is likely to be fluid rather than rigid.

Yin further elaborates that in an interview, the researcher has two functions, firstly to follow a line of inquiry pertinent to the research and secondly to ask the questions in an unbiased manner. He also (2003; 86) lists the advantages and disadvantages of the interview as a source of evidence.

The advantages are

- Targeted - the interview focuses directly on the case study topics
- Insightful - provides perceived causal inferences
The disadvantages are

- Bias occurring due to poorly constructed questions
- A biased response from the interviewee
- Inaccurate recall of events
- Reflexivity - the interviewee gives the interviewer what he wants to here

Teasing out the above, we see that, the interviewee in this research is chosen due to them being in a particular position, which by its nature would provide them with particular information. In the present research, many of the relevant facts will have already been established through the use of documentary sources. The interview will consequently fulfill three functions. Firstly, as noted by Harrison above, the interview may provide information that may fill in the gaps where other sources provided insufficient information. This type of evidence should be corroborated with another data source or used with particular caution. Secondly, the interview can act as a source of opinions, views and alternative explanations of the policy process and finally, it can corroborate material already collected from a different source. In essence, the interviewee can provide insight into the policy process as both an expert in the particular area and as person present as the events unfolded.

Looking at the disadvantages, the bias due to poorly constructed questions can be overcome through following guidance in research methodology literature and ensuring the questions are previewed by a knowledgeable independent previewer. With regard to bias arising due to the interviewee providing self-serving responses, the interviewer can safeguard against this by ensuring the sequence of evidence gathering is done so that he has all the possible data attainable that could be used to probe a perceived "self-serving" answer. This involves gathering as much information as possible from documentary sources and then interviewing the subjects in a sequence where those who are perceived to have a motive to give self-serving answers will be interviewed after those who are only providing information; who are marginal actors; or who have no motive to provide self-serving answers. This will allow the interviewer the best opportunity to probe and test
answers that may be self-serving. Richards (1996) believes that elite interviews for this reason is best carried out in the late stage of the research. Mannheim and Rich (1995) also confirm this in stating that elite interviewing is a "process of discovery" where later interviews will be often be more informative than the earlier interviews as the researcher becomes more familiar with and knowledgeable of the topic. With this in mind key players should be interviewed last. With regard to recall, as one of the functions of the interviews are to "fill in the gaps" where the documentary evidence was insufficient, this may allow the interviewer to prompt the interviewee, without bias, with facts that may help recall. Prior to, or at each interview, I presented the interviewee with a factual timeline of events. This helped jog the interviewees' memory; however, several of them had difficulty recalling events. The problem of reflexivity is noted but is not envisaged to be a major issue. The interviewees are all actors who have risen to the heights of their chosen profession and are generally not the type of person to bend their thoughts easily for the sake of pleasing a researcher. However, the point is noted and will be kept in mind.

In stating that "the interviews will appear to be guided conservations rather than structured queries", Yin effectively asserts that a "case study" interview should be conducted in a "semi-structured" format. Bryman (2008; 439) agrees when he states "If the researcher is beginning the investigation with a fairly clear focus, rather than a very general notion of wanting to do research on a topic, it is likely that the interviews will be a semi-structured one, so that the more specific issues can be addressed." He further elaborates that you would choose semi-structured interviews "If you are doing multiple-case study research, you are likely to find that you will need some structure in order to ensure cross-case comparability." It is also worth pointing out that the "semi-structured" interview format ties in logically with the choice of the case study as a choice of methodology. As we saw above Yin (2003; 2) states that "the distinctive need for case studies arises out of the desire to understand complex social phenomena...[it] allows investigators to retain the holistic and meaningful characteristics of real life events." The semi-structured interview's comparative advantage over other means of data collection is
that it allows the researcher to maintain a level of focus but it also gives the flexibility to
gather complex and holistic data. Having asserted the semi-structured interview as the
interview format of choice, it is now appropriate to ascertain who should be interviewed.

Who to interview?

Harrison (2001; 940) discussing “Elite Interviewing” states that

If we wish to discover how political institutions operate, how
important decisions are made and how political power is attained,
we are not likely to ask the public at large, but rather those
individuals (very often a small group) who have access to this level
of information – those referred to as political elites

The subject of this research concerns how political institutions work; it seeks to
understand how policy decisions are made and how the power to influence these
decisions is attained. This would indicate that elite interviewing is the appropriate means
of collecting the most pertinent and relevant data. Richards (1996; 199) further confirms
the suitability of elite interviewing as a data collection method for this research when he
states “...the whole notion of an elite, implies a group of individuals, who hold, or have
held, a privileged position in society and, as such, as far as a political scientist is
concerned, are likely to have had more influence on political outcomes than general
members of the public”. However, Patton and Sawicki (1993) caution that the “more
senior individuals may have a more sophisticated understanding of the political arena, but
they may also be more reluctant to speak openly”.

In deciding who should be interviewed, I decided to attempt to interview as many as
possible of the actors who held key and relevant positions in the subsystem triangle of
elected government, administrative government and key office holders in the different
interest groups. It was imperative to interview representatives from each point of the
triangle. However, due to the long time frame of the cases, it is impossible to interview
everybody involved in the cases. In delineating criterion on who to interview, I decided to
target, first those actors who were most involved in the each of the policy areas. The membership of this category was decided on my judgment based on my knowledge of the two cases. Secondly, I decided to concentrate on recent office holders' as their recall of events would be better. See appendix II for the list of interviewees.

**Interview Guide**

The data collection method of the "semi structured" interview implies that there is some structure to the interview but that there is also some flexibility that allows the interviewee to express their opinion or to bring to the attention of the researcher other information that the interviewee considers relevant. This would indicate the need to construct some form of interview guide prior to the conduct of the interview. As Bryman (2012; 473) explains:

> The idea of an interview guide is much less specific than the notion of a structured interview schedule. In fact, the term can be employed to refer to the brief list of memory prompts of areas to be covered that is often employed in unstructured interviewing or the somewhat more structured list of issues to be addressed or questions to be asked in semi-structured interviewing.

As this research uses the "structured, focused" comparison method (George and Bennett (2004; 67)) of case study analysis, and, as noted above, a key element in choosing the semi-structured interview is that a standardized set of questions can be asked so as to facilitate comparison between cases. A further key point to keep central to the interview guide is that the ultimate reason for conducting the interview is to answer specific research questions.

The data that is required from the interviews, as noted by Harrison above, can be sorted into two distinct categories. The first category is to a large degree factual and historical; the interview seeks to discover information about the policy area that complements the documentary sources of evidence. It is however, unavoidable that a certain level personal
opinion will enter this part of the interview. The second category seeks to elicit the views and opinions of key players, in a standardized fashion, in each policy arena on the exertion of influence in the policy process. As mentioned above, there is inevitably some overlap of the two sections.

The above requires that the interview be structured into different parts. Examining the historical/factual element of the semi-structured interview, we see that each interviewee due to their position will have specific personal and individual information on the case in question. Consequently, the interview guide in this section is less "structured" and organised around themes that comprehensively covers the necessary breadth of data collection but that also recognizes that each individual’s knowledge is idiosyncratic. (See below). Further, this section requires that the interviewer be fully briefed as to the historical/factual data that the interviewee may be able to provide Richards (1996; 201). This wasn’t a problem as due to the preliminary documentary data collection and sequencing of interviews, as discussed above, the interviewer has an in-depth knowledge of the case. Moving now to examine the influence element, this is conducted in order to collect data to assess influence for use in connection in relation to the “Attributed Influence” and “structured, focused comparison” methods. Consequently, the questions are more standardized so that they may be used to compare influence across cases and over time.

In chapter 1, we used Punch’s “hierarchy of concepts” in order to delineate, the research area, topic and questions. At the bottom of the hierarchy lie the “data collection questions”. Punch points out that “In empirical research, it is necessary that data be linked to concepts and concepts to data, and that the links between concepts and data be tight, logical and consistent”. In setting the interview questions, we are effectively delineating some of the “data collection” questions, as referred to in Punch’s hierarchy. It is crucial that these interview questions collect the necessary empirical data that links tightly, logically and consistently to the concepts inherent in the specific research
questions. It is also important that the data collection questions and subsequent interview questions cover the full breadth of the concepts.

Ďur (2008) lists a number of areas that the researcher should be cognizant of when collecting data with regard to influence. He notes, the researcher needs to establish; the actors' preferences; their attempts to influence policy; their access to decision makers; the decision-makers responses to these attempts; the degree to which groups' preferences are reflected in outcomes; and the groups' statements of satisfaction or dissatisfaction with the outcome. Much of the above can be established through analysis of documentary analysis but it is also necessary to complement and corroborate the sources of data collection. As noted above each interviewee has unique experience and knowledge of the particular policy process due to their position. This means that the interviewee has knowledge of relevant historical facts but also views and opinions as to who exerted influence over policy at particular points in time. Section A of the interview establishes the interviewees' role and historical knowledge of the policy area. Section B seeks primarily to establish who sought to influence the policy and their preferences while section C seeks to elicit the interviewees' views and opinions on who exerted influence.

See appendix III for the interview guide
3.6.3 Content Analysis Data Collection for the Policy Image Variable

The goal of this section is to outline and explain the proper procedure for the collection of data for the policy image variable. This data properly collected and graded, should trace the salience and tone of public debate surrounding both issues as systematically and completely as possible. To achieve as full a picture as possible of the policy image variable, I analyze (1) all coverage of both issues in the country’s leading newspaper and (2) the debates in both houses of the nation’s parliament. For the purposes of this research, I sought to discover if the broad discourse in both arenas was pro, anti or neutral to the different interest groups’ positions during the case study period and also to discover if the balance of this discourse varied over the length of the case study.

Coding Manual

The Coding Manual is a statement of instruction to the individual coders that includes all the possible categories for each dimension being coded. Since policy image is the main conduit between the micro and macro political environment, each unit of analysis (a newspaper article, or an Oireachtas debate) is coded for tone as “Pro-interest group position”, “anti-interest group position” or neutral. The entries were coded according to a numerical tag. A “+1” indicated that the speaker or article, on balance, supported the interest group position, while a “-1” indicated that the entry, on balance, did not support the interest group position. Entries that were neutral were coded “0”.

The next task was to develop the criteria for categorising each unit of text. This involved;

1. Identifying the interest groups’ positions
2. Assessing if that position had changed over the period
3. Reading a sample of the text with the purpose of developing criteria to categorise the text as pro or anti the interest groups position

Interest Groups’ Positions
I identified each interest group’s position by first reading broadly on the topic in newspapers, policy documents, and academic literature. From these, I gleaned each of the interest groups’ key positions.

**Taxi Drivers**

The taxi-drivers, over most of the period of the case study were strongly against the issuing of any new taxi licences. There was a period in the mid to late 1960’s where a sub-section of the drivers sought fare increases instead of a cap on licences. This split came to an end in the late 1960s. This position has not changed to the present day. (See Taxi case study for in-depth investigation of the taxi drivers’ position.)

**Consultants**

The hospital consultants over the period have been strongly in favour of a common contract of employment that guarantees them certain rights. The key position throughout was to maintain their independence and private practice rights. The consultants’ position has not changed to the present day. (See Consultant case study for in-depth investigation of the taxi drivers’ position.)

**Choice of Data Sources**

Having extracted, the interest groups’ position, I next chose the data sources. The potential data sources for the content analysis in the present case studies could possibly come from the following sources,

- Newspapers articles
- Magazine Articles
- Television Programmes
- Radio Programmes
In choosing the data sources two attributes for consideration stand out: firstly, does the data source accurately represent the general view and broad discourse on the different specific issues over the course of the case studies and secondly, is the data accessible.

From the list of data sources above, we can see that national newspapers and Oireachtas debates stand out as providing the most general view and the broadest debate on the issues. Magazine articles and published reports did not provide enough breadth on the issues; whilst some TV and radio programmes have been running for the length (or close to) of the case studies, their accessibility was identified as an issue. The national newspapers met the first criteria above to different degrees. There were two national daily newspapers that were in existence over the full time periods of the case studies; The Irish Times and the Irish Independent. I chose the Irish Times for two reasons; firstly, it is generally recognized as being the “paper of record” when it comes to Irish affairs and secondly, on examination of both newspapers electronic databases, the functionality of the Irish Times database was far superior to that of the Irish Independent database. In order to ensure the reliability and validity of the policy image variable, it was necessary to choose a second source of data. The subject matter and tone of the Oireachtas debates provide a broad reflection of how the different issues are viewed in the general discourse of the society. They were also relatively easily accessed through the Oireachtas Debates electronic database.

**Keyword Search of Databases**

As Baumgartner and Jones (1993; 291) state “the first question for any issue is to identify the proper keywords to ensure that all articles on the topic are found.” In the current case studies: The Irish Times and The Oireachtas Databases were searched using various keywords. Different relevant words were used to ensure that all relevant articles were found, listed and coded. For example, in the taxi case study, keywords such as taxi
licence, taxi plate, public service vehicle licence, hackney, etc. were used. The different keywords regularly extracted the same articles and I experimented with the keywords until I was sure that I had identified all the relevant articles. After the data was collected, searches using just the words “taxi” and “hackney” etc. were done, as a “sweeping exercise” to see if further articles could be identified. Some keywords were used to reflect the change in prevalence of usage of words over time. (See Baumgartner & Jones 1993; 292) For example, the medical consultants’ contract in the early years was most often referred to as “the common contract”. This usage faded in the 1990’s and 2000’s when the phrase “consultants’ contract” became more popular.

The two databases had their own unique characteristics. With regard to the Irish Times, I downloaded the date, title, type of article and author onto an Excel Spreadsheet. Each article was printed off and filed chronologically. The Oireachtas database was more cumbersome to search and more difficult to download from. The results of the keyword searches were amalgamated on to a spreadsheet in a similar fashion to the Irish Times results. However, a printout of some of the Dáil debates could be up to 40 pages long. To aid coding and replication, a hyperlink was attached to each entry. Another issue was that in one debate, several speakers could express different views on the issue. In order to reflect this, each speaker was entered as a data point, and his/her contribution was coded accordingly. In order to aid checking of the coding of the Oireachtas entries, the relevant portion of each speaker’s contribution was cut and paste onto the spreadsheet.

Coding

I analyzed every relevant article in the Irish Times and every relevant Oireachtas debate contribution, between 1960 and 2006 for the taxi case study. A similar analysis was conducted for the consultant case study between 1967 and 2012. For the taxi case study, 748 articles in the Irish Times and 1593 debate contributions to Oireachtas debates were analyzed and coded. In the consultant case study, 504 articles and 855 contributions were analyzed and coded. A pilot coding
project was first undertaken to establish the interest groups’ position and to establish the parameters of each category. The data was analyzed and discussed until I was satisfied that an adequate set of parameters was delineated. A sample of 200 data points, prior to the full coding project, was chosen in a stratified random sample and each point was coded by two separate coders. Agreement in coding was 88%. The full data sample was then painstakingly coded over the summer months of 2012. (See Appendix IV for the developed criteria)
Chapter 4

The Irish Political System

4.1 Introduction

The Republic of Ireland is a small island nation located off the western sea-board of the continent of Europe. It is a parliamentary democracy that has been self-governing since 1922, when it gained independence from the United Kingdom. It has a population of 4.2m people. Gross Domestic Product was €159.6 bn. in 2009 (down for a peak in 2007 of €189.4 bn.). Ireland has been a member of the European Union since 1973 and was a founding member of the single European currency, the Euro.

4.2 Historical Constitutional Background

Following a general election of December 1918, the elected Sinn Féin members met in the Mansion House in Dublin on 21 January 1919 and constituted themselves as Dáil Éireann. They drew up a document known as the “Constitution of Dáil Éireann” which contained five short articles and promulgated a “Declaration of Independence” and a “Democratic Programme” which reaffirmed the sentiments expressed in the Proclamation of the Irish Republic of Easter 1916. As Doolan (2003 p.4) states, “These documents, although of historical importance, had no subsequent constitutional or legal significance.” The “War of Independence” followed during which the United Kingdom passed the Government of Ireland Act 1920, which divided Ireland into two separate jurisdictions – the 26 counties of Southern Ireland and the 6 counties of Northern Ireland. This statute never became effective in “Southern Ireland” as the Anglo-Irish Treaty established the Irish Free State (Saorstat Éireann) on 6 December 1922 as a self-ruling dominion within the British Commonwealth. The Constitution of the Irish Free State (Saorstat Éireann) Act 1922 was passed by Dáil Éireann sitting as a constituent assembly on 25 October 1922. As Doolan (2003, p.6) states “The Constitution of the Irish Free State never met
with the approval of all political groups, and inevitably, with the passage of time it was dismantled by ordinary laws”.

In early 1937, a draft constitution entitled “Bunreacht na hÉireann” was published, debated and enacted by Dáil Éireann. On 1 July 1937 it was passed by the People in a plebiscite as the fundamental legal document of the state. It came into effect on 29 December 1937 and has been in effect ever since. It has been amended a number of times since by the People through referenda and “it has been applied by the courts in a large number of cases many of fundamental importance to our law.” Doolan (2003 p. 6)

4.3 The Institutions of Power

Article 5 of Bunreacht na hÉireann states that “Ireland is a sovereign, independent, democratic state”: the exercise of power in Ireland is based on Montesquieu’s doctrine of the separation powers which advocates the distribution of the powers of government among the three pillars of the State. Article 6.1 states “All powers of government, legislative, executive, and judicial, derive under God, from the people, whose right it is to designate the rulers of the State and in final appeal to decide all questions of national policy according to the requirements of the common good.” The national parliament of Ireland is called the Oireachtas. “The constitution defines the Oireachtas as consisting of two houses, Dáil Éireann and Seanad Éireann, and the President (article 15.1.2)”. “Of these three political actors, the Dáil is the most significant” Gallagher (2010, p. 198).

4.3.1 Head of State

The Head of State is the President (Uachtarán na hÉireann). The presidency is listed in the constitution as part of the Oireachtas but the office operates almost completely separately from the two houses of parliament. The President is elected by popular mandate; however the role as determined by the constitution is relatively powerless. The constitution grants six discretionary powers for use in specific circumstances. Gallagher
(2010, p. 199) notes four of these are relatively minor but the remaining two powers are important. The first relates to the dissolution of the Dáil while the second allows the President, when presented with a bill passed by the houses of the Oireachtas, the ability to refer it to the Supreme Court for a judgment on its compatibility with Bunreacht na hÉireann.

4.3.2 Houses of Parliament

4.3.2.1 Dáil Éireann

Dáil Éireann is the lower house of the Oireachtas, however, as it is directly elected by the people, it is the principal chamber of the Irish parliamentary system and of the two houses; it has the most power. A general election for a new Dáil must take place at least once every five years and within 30 days of the dissolution of the previous Dáil. The current lower house (The 31st Dáil) has 166 members, who are elected under a system of proportional representation using a single transferable vote. Presently, every constituency elects between three and five TDs. Article 16.2.6 of the constitution states that “No law shall be enacted whereby the number of members to be returned for any constituency shall be less than three” however, it does not specify any upper limit to the number of members per constituency. However, section 6 of the Electoral Act 1997 places an upper limit of five members in any one constituency. These electoral arrangements are often cited as a reason for an excess power of interest groups in Ireland as a small minority of votes often determines who takes the last seat in a constituency. This potentially confers power to any group that can command the votes of a reasonably small number of the electorate. This is especially the case if this group is spread geographically across the constituencies or if the result of the election is expected to be close. As Kingston (2007; 7) notes “Because P.R. makes it so difficult for any party to obtain an overall majority, Irish Governments have always been vulnerable to rent-seeking by small groups which control a mere handful of seats”. This also concurs with Downs (1957).
As we have seen above the Dáil is only one of three elements of the Oireachtas, however it is by far the most powerful branch. The Taoiseach, Tánaiste and Minister for Finance must be members of Dáil Éireann (Article 28.7.1). The Taoiseach is chosen by a vote of a majority of the members of the Dáil, who is then referred to the President for appointment. The Dáil approves by vote the Taoiseach’s nominees to serve as government ministers, the comptroller and auditor general, and the attorney general. It must also vote on issues of taxation, public expenditure and legislation. (See below)

4.3.2.2 Seanad Éireann

Seanad Éireann is the upper house of the Oireachtas. A Seanad election must take place within 90 days of the dissolution of the Dáil. The President on the advice of the Taoiseach determines the date of the first meeting of the new Seanad. As Dooney and O’Toole (1998) state “The Seanad has no independent life”. Article 18.1 of the constitution states, “Seanad Éireann shall be composed of sixty members of whom eleven shall be nominated members and forty-nine shall be elected members.” The Taoiseach appoints the eleven nominated senators. This generally ensures that the government maintains a majority in the upper house. Of the forty-nine elected members, graduates of Dublin University and the National University of Ireland elect six. The remaining 43 are elected from five “vocational panels.”

Article 18.7.1 states “...five panels of candidates shall be formed in the manner provided by law containing respectively the names of persons having knowledge and practical experience of the following interests and services, namely:-

i National language and culture, literature, art, education and such professional interests as may be defined by law for the purpose of this panel;

ii Agriculture and allied interests, and fisheries;

iii Labour, whether organised or unorganized

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iv Industry and commerce, including banking finance accountancy engineering and architecture;
v Public administration and social services, including voluntary social activities"

These panels are then each sub-divided into “the Oireachtas sub panel” and “the nominating bodies sub-panel.” The Oireachtas sub-panel is populated by candidates nominated by at least four members of the Oireachtas while the nominating bodies sub-panel is populated by candidates nominated by 98 registered groups “who must be concerned mainly with or be representative of the interests and services of one or other of the panels” MacCarthaigh (2008).

The electorate for those nominated on the vocational panels is made up of,

(i) the members of the incoming Dáil
(ii) the members of the outgoing Seanad
(iii) the members of the Councils of Counties and the City/Borough Councils.

As Gallagher (2010; 221) states

The election of 43 members, from quasi-vocational panels might give the impression that the Seanad consists largely of representatives of the main interest groups. However, the reality is otherwise because the composition of the electorate (which is defined by law not by the constitution). Not surprisingly, since the great bulk of the voters are practicing party politicians, so too are the people they elect.

The Seanad is most certainly the weaker of the two houses. This weakness is mainly reflected in the area of legislation. While it does have the capacity to initiate legislation, this function is only used occasionally. The main function of the Seanad is to review legislation made by the Dáil. It can delay legislation by a maximum of 90 days. Article 23.1 allows that if the Seanad rejects a non-money bill, comes to no decision, or proposes changes that are unacceptable to the Dáil, the lower house can simply overrule the upper house. With a money bill, which may only be initiated in the Dáil (Article 21), the Seanad has only twenty-one days to make recommendations, which the Dáil is under no
obligation to accept. If the Dáil overrules the Seanad’s rejection of a bill, it may invoke Article 27 of the constitution, whereby a majority of the Seanad and one third of the Dáil may petition the President not to sign a bill. Article 27 has never been invoked, indeed as Gallagher (2008, p. 223) notes the Seanad has not rejected a government bill since July 1964.

The Seanad is often dismissed as a “mere talking shop” and “a waste of money.” The present government proposed and supported a referendum on the abolition of the Upper House. It was defeated by the People in a referendum in October 2013.

4.4 Government

The first vote in the Dáil following a general election is to select the Ceann Comhairle or Speaker of the House. Article 13.1 sets out that the Dáil nominates the Taoiseach and approves the composition of Government, whereupon the President appoints them. The Dáil also has the capacity to dismiss a Taoiseach and Government through a vote of no confidence. The Government or cabinet is “a committee of the legislative body selected to be the executive body” (Bagehot 1963 [1867]: 66) as quoted in O’Malley and Martin (2008; 295). As Article 28.2 states “the executive power of the state shall, subject to the provisions of this constitution, be exercised by or on authority of the Government.”

The use of the words government or executive can be used in a broad or narrow sense. As O’Malley and Martin (2008; 295) state “There is much more to government than the 15 men or women that collectively comprise the cabinet and individually head departments of State.” In the broadest sense, government may be seen as all the elements of the state that undertake the role of implementing the laws and policies of the Houses of the Oireachtas. O’Malley and Martin provide a broad overview of the members of government, “There are ministers of state (often known as junior ministers) tasked with easing the burden on cabinet ministers; senior civil servants, permanent officials and political neutrals who advise ministers and are often charged with implementing policies;
special advisers to ministers who offer government ministers alternative more political advice; and heads of now numerous agencies. Together, these might be referred to as the ‘Core Executive’ (Rhodes, 1995), and any consideration of government is incomplete without them"

4.4.1 The Dáil and the Government

Briefly probing now the role of the separation of powers doctrine in the Irish constitution, O’Malley and Martin note “…in Ireland or in any other parliamentary democracy. Unlike in presidential systems there is no separation of powers; parliament and government are fused and will tend to stand and fall together.” With a “presidential system of government” the president acts as the executive overseen by the legislature and judiciary. Examining the Irish constitution we see that “Ireland emphatically does not” Gallagher (2010 p. 201) have this kind of presidential system of government. As he further explains, classical liberal democratic theory on “parliamentary systems” like Ireland’s, ascribe a key role to the parliament. “The people elect a parliament, which elects a government, makes laws and decides policies; the government then carries out these decisions of parliament and remains constantly accountable to it. This is in fact, what enables democratic states to claim they are democratic”. Gallagher (2010, p. 201) Set against the ideal above, democracies across Europe can be seen as rather disappointing in this regard as it appears that once a government gets into office it can largely operate uncurtailed by parliament. Set against even this metric of low standards of oversight, we find that Ireland has a system where “it has frequently been argued that the Dáil is exceptionally weak” Gallagher (2010, p. 201). Although Government is a committee of the Dáil; it is the Government that dominates the Dáil.

4.4.1.1 The Role of Political Parties

One major reason for the domination of the Dáil by Government is due to the fact that the Dáil is dominated by political parties. “When deputies vote on issues, they do so, in most
cases, as members of a party, not as 166 atomised individuals...It is extremely rare for
deputies not to vote with the party; the norm is that every TD votes in accordance with
the party line on every issue” Gallagher (2010 p. 202). The reason for this almost
automatic response to vote in line with the party is that there exist very strong sanctions
against errant parliamentary party members. TDs voting against the party whip are
normally expelled from the parliamentary party and possibly more importantly, rebel TDs
know and fear they will be overlooked for promotion within the party and/or ignored
when “plum” jobs with extra compensation are being distributed.

TDs make these severe rules themselves; however, they understand that the straight-
jacket of the whip can be important in making their lives easier. The whip makes TDs
less vulnerable to pressure from outside the party “TDs cannot be picked off, one by one,
by pressure groups or local interest groups, because everyone knows that any threats such
bodies make against a TD for not doing their bidding pale into insignificance against the
punishment the party would impose for displeasing it.” Gallagher (2010, p.203)

From this we see that to consider parliament and government as two separate entities
competing with one another over issues is to ignore the reality of party domination of
parliament and government. The battle that exists is between the opposition parties and
government parties. The notion of a contest for power between government and
parliament bears little relation to Irish political reality.

4.4.1.2 The Passage of Legislation

Article 15.2.1 states “The sole and exclusive power of making laws for the state is hereby
vested in the Oireachtas: no other legislative authority has power to make laws for the
state.” As Gallagher (2010, p.208) notes this “reflects one of the central tenets of classical
liberal democratic theory” the legislature legislates and the government puts into action
the will of the parliament. Government is the agent of parliament and it carries out the
parliament’s will whether it likes it or not. This is obviously not what occurs. The Dáil,
it has been argued, is effectively nothing more than a “glorified rubber stamp” Dinan (1986, p.76) carrying out the government’s will.

From the discussion above, it may come as little surprise that legislation is nearly always initiated by a minister of government and not by an ordinary member of parliament. Dáil standing orders contain provisions for the introduction of “private members” bills’ which may be initiated by any deputy (but usually a member of the opposition). As Gallagher (2008, p. 208) notes, from 1937 to 2002 only 15 “private members” bills were passed into law.

The procedure for law making is usually as follows, a Government minister wishing to introduce a bill brings a “Memorandum for Government” to the cabinet. This Memorandum delineates the purpose of the bill, the views of the ministers concerned and contains an outline draft of the bill. If cabinet endorses the proposal, the cabinet secretary sends the Attorney General a letter requesting the drafting of the legislation. Once this has been done, the bill goes to parliament for discussion.

Law-making also occurs through the phenomenon of “delegated legislation” in the form of statutory instruments. Here, parliament will have previously passed an act that expressed broadly the goals of the legislation but allowing another authority normally the particular minister, to design the detailed legislation. The rationale is that central issues are debated and decided by parliament and that the technical and administrative details are left to specialised experts to work out. The problem with this is that the minister or specialised authorities may be able to draft and implement legislation that is hidden from parliamentary scrutiny or reasonable publicity. The power vested in the minister here is considerable and can allow a minister to grant favours, shielded from the full glare of parliamentary scrutiny and the media. We will see in the taxi case study that the Minister often introduced “statutory instruments” that favoured the taxi lobby.
In reality, most policy-making largely takes place within the various departments. With civil servants having reasonable scope to move policy in their own preferred direction. Ministers set the broad policy parameters and priorities. However, civil servants have a detailed expertise in their area and can use this to varying degrees of influence depending on the ministers’ expertise or interest. Ministers though are the gatekeepers of policy so they control to some degree what is seen at cabinet level. How the policy is administered can also vary widely depending on the individual civil servants and ministers. Further, ministers may “trade” support for each other’s policies at cabinet in order to get their preferred policy through.

So what is the role of Dáil members in the passage of legislation? Very little it would seem except following the party whip. Dáil debates are often seen as little more than an exchange of scripts, with TDs wondering if anybody is listening at all. Pat Rabbitte TD once described the televised Dáil report as being for “alcoholics and insomniacs”. Individual TDs will often try to use the debate for something that matters to them - getting publicity for a local issue or raising a topic on behalf of an interest group.

However it would be an exaggeration to say that Ireland suffers from a “cabinet dictatorship” between elections. The government still needs the backing of a majority of TDs. It would be foolish for Government ministers to completely ignore the views of backbenchers. Often times, interest groups use scare tactics on TDs so that they will relay the message to Government ministers. Whilst the government has a majority; one mustn’t forget that it must retain the support of their backbench TDs. “Relations between governments and their own backbenchers are central to any understanding of the relationship between government and parliament” (Andeweg and Nijzink 1995). Parliamentary party meetings take place weekly. These meetings give ministers the chance to find out which issues are being raised “on the ground” or “at grass roots level”. Further, ministers want to remain popular with their backbench TDs as these are the people who vote in leadership contests. However, the following, from Gallagher (2010, p.224) indicates the position of a TD in the power pecking order.
Interest groups naturally concentrate their lobbying efforts on government ministers and senior civil servants where the real power lies, leaving TDs with few interests to represent other than those of their constituents."

Although Murphy (2010, p. 345) sees it differently,

...the Oireachtas and its members still remain the prime focus, principally because parliament is the centre for information, access and publicity for such groups. TDs have access to insider information, can generate publicity (particularly given the televising of Dáil proceedings) and are in a position to put pressure on governments and individual ministers by tabling parliamentary questions." TDs will also sign in interest group members so that they can attend Oireachtas committee sittings that are relevant to their policy area.

### 4.4.1.3 The Role and Power of the Taoiseach in Government

Article 13.1.1 states the president shall, on the nomination of Dáil Éireann appoint the Taoiseach, that is the head of Government or Prime Minister." On appointment the Taoiseach then selects his ministers, who are approved by the Dáil and similarly appointed by the President. The Taoiseach has the sole power of selecting his cabinet. The Taoiseach may resign at any time for whatever reason by tendering his resignation to the President. Once a Taoiseach resigns, the other ministers are deemed to have resigned also. The Taoiseach may also compel an individual minister to resign for any reason that he feels is sufficient. The Taoiseach also nominates the ministers of state, eleven senators (out of sixty) and the Attorney General for appointment. The Taoiseach must resign upon ceasing to retain the support of a majority of Dáil deputies.

The above rules of appointment generally mean that the leader of the largest political party in the Dáil or the leader of the largest party that can come to an agreement with other parties (to form a coalition) will become Taoiseach and his appointees will become ministers. TDs generally see career progression solely in terms of governmental appointment. Apart from the honour of being a minister; getting the "Merc" is very
important, especially in rural constituencies, where being a minister is generally viewed as having the ability to divert money and jobs into the constituency. Being a minister also tends to increase the safety of the incumbent’s seat.

How the Taoiseach chooses the TDs for office generally follows a number of patterns. Firstly, those close to the Taoiseach and supportive of him in any leadership contests are “rewarded.” However, occasionally a senior TD may have a power base independent of party leadership so the Taoiseach must take this into consideration in order to ensure party cohesion. Further electoral, geographical considerations have to be taken into consideration. A senior party member who brings in a colleague on his/her coattails in the constituency must be rewarded; as has a TD who has a strong personal vote in their constituency (who could hold it if he/she went independent). Finally, it is important that the Taoiseach is seen to spread the Ministerial rewards geographically around the country. For example, it is prudent to appoint a minister from “the west” or from Cork (the second largest city). Where a Taoiseach, is head of a coalition, ministerial posts are distributed generally in proportion with seats. Although in Ireland the smaller parties have tended to be over-represented.

**Taoiseach and Cabinet**

The “cabinet” system of government emerged from eighteenth century England where ministers used to meet the King in his private cabinet. Over the course of time a set of rules have emerged called the doctrine of ministerial responsibility. “In Ireland, as elsewhere, there are few codified rules for the operation of government” O’Malley and Martin 2010, p.301). There is a cabinet handbook outlining cabinet procedures but these can be ignored if the Taoiseach so wishes or he cannot prevent them from being broken.

The Taoiseach at his sole discretion sets the agenda for cabinet from items submitted by ministers to the Department of An Taoiseach. Generally though, all legislation, anything with major financial implications and major policy changes are discussed at cabinet.
However as O’Malley and Martin (2010, p.306) reveal “one former Taoiseach said ‘if there was something you were totally against, you could control it. You could control it by not having it at the cabinet table; you could control it by having it at a cabinet subcommittee where it’s thrashed out’

Cabinet operation varies considerably by Taoiseach (see below). Ministers see cabinet as a real constraint more than just a rubber stamp (Farrell 1994). With coalition governments, the party leaders will tend to meet before cabinet to iron out any difficulties.

The Role of Taoiseach

The role of Taoiseach with no “line department” to run is unclear. However, he has been described by a former Secretary to the Government as the ‘captain of the team’.

In this capacity, he is the central coordinating figure, who takes an interest in the work of all departments, the figure to who ministers naturally turn for advice and guidance when faced with problems involving large questions of policy or otherwise of special difficulty, whose leadership is essential to the successful working of the government as a collective authority, collectively responsible to Dáil Éireann, but acting through members each of whom is charged with specific departmental tasks. He may often have to inform himself in considerable detail of particular matters with which other members of the government are primarily concerned. He may have to make public statements on such matters, as well as on general matters of broad policy, internal and external (O Muimhneachain 1969 as quoted in Dooney and O’Toole 1998, p.11)

Chairman or Chief?

As we see from the previous quote, the central role equips the Taoiseach with the ability to exercise better informed powers of surveillance than any other member of government. The Taoiseach, in comparison with prime ministers in other countries, is seen as being very powerful. O’Leary (1991, p. 159) notes the Taoiseach “is potentially more powerful
than any other European prime minister, with the exception of his British counterpart.” Farrell (1994), in the only book length study of the Office of An Taoiseach, argued that “no single actor...can compare in influence with the Taoiseach: what he says...will be listened to and what he wants achieved.” Further, a former civil servant with broad experience across departments including Finance and the Taoiseach’s department says of the office and of the department ‘it is amazingly powerful, all significant decisions flow through there’.

To summarize, the sources of the Taoiseach’s power are

- Ability to choose those around him and dismiss them
- Setting the agenda for cabinet
- Calling decisions at cabinet
- Ability to observe the entirety of government
- Popularity with public

The constraints are

- Constrained by factions within party and coalition (although factions can be broken by appealing to individuals in the party through incentives.)
- Number of parties in coalition
- Number of party seats as percentage of government parties
- Strength of position as party leader
- Public opinion

4.5 Local Government

Local Government in the Republic of Ireland consists of 34 local authorities. These comprise of five city councils and twenty-nine county councils “which have an equal standing and which cover the entire land area and population of the state” Collins and Quinlivan (2010; 363). Local elections must take place every five years. The functions of local authorities are separated into eight programme groups in the Public Bodies (amendment) Order 1975. They are as follows: (1) housing and building (2) road
transportation and safety (3) water supply and sewerage (4) development incentives and control (5) environmental protection (6) recreation and amenity (7) agriculture, education, health and welfare (8) miscellaneous. Daemon and Schaap (2000) find that in comparison to other EU states Ireland has a weak system of local government. Chubb (1982; 288) states the reason for this when he says

It cannot be denied, of course, that local government is subordinate government, since local authorities, having no inherent authority of their own, derive their functions and powers from the Oireachtas

Local government as we see has no authority of its own. Collins and Quinlivan (2010; 363) state “Ireland has a weak system of local government due to strict central control, a lack of financial independence and a narrow functional range.”

4.6 Summary

From the above, we see that in the Irish political system, government dominates parliament and the Taoiseach dominates the government. This places the Taoiseach in a very strong position. This is corroborated by evidence in the taxi case study whereby Bertie Ahern as Taoiseach could effectively unilaterally decide taxi policy. The protest of opposition TDs in the Dáil and the criticism leveled by journalists could largely be ignored, however, the Taoiseach relented on the taxi issue when his coalition partner insisted that it be dealt with.
Chapter 5

Taxi Licencing Policy

5.1 Introduction

In this chapter we analyze the evolution of taxi policy; specifically in relation to controls over the number of licences issued. The chapter analyses the three specific research questions as set out in the literature review. Firstly, I analyze the inside influence variable in relation to policy change. Subsequently, I analyze the connected outside influence policy image and venue change specific research questions. I then draw conclusions on the analysis of the three variables.

In previous policy process studies, the background data has generally been populated by using existing research of the policy area. For example, Baumgartner and Jones (1991, 1993) in their nuclear power case study use work by Weart (1988), Inglehart (1984), Rothman and Lichter (1982 & 1987), and Polsby (1984) amongst others to populate the background details of their case study. Also Salka (2004) uses Kaufman’s (1960) book “Forest Ranger” and works by Culhane (1981), Twight, Lynden and Tuchman (1990), and Robbins (1993) to fill in the backdrop of his study of the “Northern Spotted Owl Crisis” in the US Forestry Service. In the current research, there is little prior extant research in both case studies; consequently, most of the background detail is original research. The attributed influence method and particularly the process tracing method used to examine the influence variable required in-depth detail of each issue. Consequently, I examine the “influence” specific research question first, as much of the detail used in answering it will provide background information for the policy image and venue research questions.

5.2 Historical Background - Setting the Scene

3 Although Wren (2003) The Unhealthy State proved invaluable in the Consultant Case Study
An article by, the journalist and former Director of *Radio Éireann*, Maurice Gorham in the Irish Times in November 1960 entitled “The Strange Ways of the Dublin Taxi” paints a quaint, if dysfunctional, picture of the Dublin taxi and bus system. He reflects that Dublin would seem to be a city very well suited to the taxi trade. It is small compared with London, of course, but quite big enough to make getting about it take a good deal of time, especially as it has practically no cross town transport. There are one or two eccentric buses that wander about from East to West by devious ways, but unless you live on their routes and make a life-long study of them, they might as well not be there. In practice, however good your bus service may be, it will only take you to and from the Pillar or the quays. The only way to get from one bus-route to another is to travel to the centre and then start back. Or take a taxi, if you can find one.

He further reflects that: taxi ranks are scarce, particularly in the suburbs; that it is pointless trying to hail a taxi because sight of a taxi on the road is a rarity and that the only way to get one is to “find a telephone, ring a rank and wait until it arrives.” He states that taxi ranks vary in their quality and that taxi-men seemed to ply for trade only at their home rank; “I think the ranks are still as exclusive as ever and strange drivers are not welcomed. You can take a taxi half across the city and however many ranks it may pass on its way, it will return like a homing pigeon to the one whence it came”.

The article was written in the first year of the 1960’s. It is generally seen as the decade when Ireland began to leave behind its insular focus and started to modernize. The Second World War had ended fifteen years previously and the countries of Europe were recovering rapidly. Ireland had just moved to an outward looking economic strategy that would lay the foundation of a modern export-oriented economy.

The motorcar was becoming a more common sight on the roads and this is reflected in the move by the government to regulate for this modern reality. The Road Traffic Act

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4 Irish Times 25 Nov. 1960
(1961) contained nearly 130 sections with provisions "for driving, fitness and vehicle tests (including spot tests on bicycles); "on the spot" fines for certain parking and other offences; meter, disc and attended car parks; provisional "L" licences for learner drivers; a speed limit of 30 miles an hour in built-up areas; and special licences for drivers of public vehicles."\(^5\)

Section 82 the Road Traffic Act 1961 repealed and replaced Part VII of the Road Traffic Act 1933. The 1961 Act set out general enabling provisions, which allowed for the detailed elements of the law to be set out in regulations by the Minister for Local Government (Environment). The Road Traffic (Public Service Vehicles) Regulations 1963\(^6\), provided that applications for taxi licences could be made at any time and no limitations were placed on the number of licences that could be granted.

### 5.3 Influence - Process Tracing and Attributed Influence

The total period of analysis in question involves assessing the influence of various actors over the course of a 40-year period from 1960 until 2001. In this section of the case study, I used Dür's process tracing typology in order to assess the interest group's influence and I supplement this with views attributed to key actors involved in the policy issue where relevant. In order to render this long period amenable to analysis, I have divided it into 5 periods. The first period covers the emergence of the issue during the decade of the 1960's up until the election of the Fine Gael/Labour coalition government in 1973. The second period covers that government's stay in power from 1973 until 1977. It proved to be an intense period of activity, which saw the taxi drivers place concerted pressure on the government. The following period from 1977 to the early 1990's sees the introduction of a cap on taxi licences in the late 1970's; a quiet period in the 1980's; followed by the re-emergence of the issue on the agenda in 1990. The fourth period, examines the intensification of the issue until 1997 while the final period from

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\(^5\) Irish Times 4 Feb 1961  
\(^6\) S.I. No. 191/1963 — Road Traffic (Public Service Vehicles) Regulations, 1963
1997-2001 deals with the issue in the run-up to the complete liberalization of the sector in 2001.

In each period, I first set out a "timeline" of key events to provide the reader with key background information. I then use Dür's typology to assess influence. For ease of analysis I have divided it into two sections: the first deals with the interactions before the policy is determined and the second examines if the actors preferences were met and their statements on the outcome. I then summarize the influence variable in each period. The analysis of the issue for this case study is relatively straight-forward given that it essentially seeks to discover who had influence over a policy that limited the number of taxi licences issued.

5.3.1.1 Period 1 - 1960 - 1973

Timeline

The issue of taxi licence control did not particularly arise until the mid-1960's. In the late 1950's and 1960's the taxi-drivers were generally divided into two opposing factions; "radio taxi" drivers and taxi-drivers that operated from ranks. The "Taxi War", as it was known, arose because the rank-based taxi-drivers saw the newly arrived "radio taxis" as stealing their business. The war settled down in the late 50's but the division remained. In the mid-60's, the radio taxi drivers means of trying to increase their income was by applying for fare increases, while the rank-based drivers saw a licence cap as the best means to provide them with an increase in income.

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\(^7\) Irish Times 17 Jan. 1964
\(^8\) NAI 98/8/97
\(^9\) Irish Times 22 Sep. 1965
Towards the end of the decade, the split between the taxi-drivers ended with most drivers now coming under the banner of the Dublin Taxi Federation, "an organization comprising of all Dublin’s full time taximen."\(^{10}\)

Bobby Molly was appointed Minister for Local Government in May 1970. Around this time, the taxi-drivers split again, with the newly formed group threatening to go on weekly strikes.\(^ {11}\) Molloy met the representatives of both groups the following month.\(^ {12}\)

A statement from the government information bureau issued after the meetings stated,

> Following receipt of a report prepared by the committee which was established to assemble the facts relating to the small public service vehicle business...The Minister told the deputation that he had no power to restrict the number of public service vehicles to a specific level but that he proposes to amend existing regulation under the Road Traffic Acts, which govern the issue of new licences, to provide that new licences will be issued at regular intervals. He said that the amending regulations will come into effect immediately.\(^ {13}\)

Amending regulations\(^ {14}\) came in to effect on 15 June 1970 and provided that applications for taxi and hackney licences “may be made only from the first to the fourteenth day inclusive of March, June, September or December in any year”. Following representations made by the taxi associations, the regulations were amended to reflect the further requests of the taxi drivers\(^ {15}\) on 27 October 1970.

**The Actors’ Preferences; Their Attempts to Influence Policy and Their Interaction with Decision-Makers**

As we saw above the taxi-drivers were split between those who wanted to introduce a licence cap and those who wanted a fare increase. In early 1964, the “radio-cab” taxi drivers applied to Dublin Corporation for a fare increase. The “rank” based drivers were

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\(^{10}\) Irish Times 22 May 1967

\(^{11}\) Irish Times 30 May 1970

\(^{12}\) Irish Times 5&13 Jun. 1970

\(^{13}\) Irish Times 13 Jun. 1970


opposed to the increase believing control on the number of licences was the appropriate policy response. A spokesman\textsuperscript{16} for them in January 1964 stated

\ldots though taximen worked very long hours, they were finding it increasingly more difficult to earn a living wage. There were many part-time taximen with good jobs who worked only at peak hours and took a lot of profitable business away from the full time men. Approaches had been made to government to introduce some sort of control to protect taximen, but nothing had come of it.

The arguments made by the taxi-drivers' representative in the above quote would become familiar to anyone following the issue over the years. They regularly argued that they had to work long hours; that it was difficult to earn a living; and that part-time taxi-drivers, with other jobs, were taking business "away" from them.

In November 1965, Mr. Richard Hynes representing the rank based drivers through the Irish Taxi Owners' Co-operative Society Ltd. urged the General Purposes Committee of Dublin Corporation, to recommend that the total number of licences be reduced by half and not to increase fares. He explained that the reduction could be achieved through natural wastage and the suspension of the issuance of further licences.\textsuperscript{17} In late December 1965, The General Purposes Committee of Dublin Corporation made a recommendation, to the Minister that a limitation on licences should be introduced.\textsuperscript{18}

We also see that taxi-drivers have sufficient influence to get a TD to raise a question on their behalf; Mr. Sean Moore TD, in June 1966 asked the Minister for Local Government "if he has received representations urging a reduction in the number of licensed taxi plates in the greater Dublin area; and, if so, if any decision has been made in the matter". The Minister for Local Government, Mr. Neil Blaney TD replied, "\ldots that compulsory limitation did not appear to be within the scope of the existing legislation"\textsuperscript{19}. When the

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{16} Irish Times 17 Jan. 1964
\item \textsuperscript{17} Irish Times 16 Nov. 1965
\item \textsuperscript{18} Irish Times 29 Dec. 1965
\item \textsuperscript{19} Dáil Éireann Debate Vol. 223 No. 3 14 Jun. 1966 also reported in Irish Times 17 Jun 1966
\end{itemize}
\end{footnotesize}
taxi-drivers met the Minister in June 1970, the same TD along with a party colleague, Joe Dowling TD, introduced the deputation.20

At a “mass meeting”, in April 1967, taxi drivers protested against the “indiscriminate licensing of taxis” and demanded an immediate cap on licences. The outcome of the meeting was to ask the Minister for Local Government to receive a delegation on the matter. As a result of the above meeting, the Secretary of the Dublin Taxi Federation, Mr. Herbert Hancock wrote to the Minister on 5 May. A delegation from the Federation met officials on 23 June and they received a letter from the Department of Local Government on 19 September. 21

Hancock wrote to the Taoiseach, Jack Lynch, on 13 November 1967 requesting him to intercede on their behalf with the Minister for Local Government. In this letter, he claimed that the Minister had put the negotiations on “the long finger” and that meanwhile the taxi industry was being “destroyed”, endangering the “livelihood of 2,000 families”. 22

Nearly a year later, in December 1968, the taxi drivers discovered one of their most potent weapons of influence. More than 700 Dublin taximen drove in a three mile, hour-long procession through the city from the Phoenix Park to the offices of the Department of Local Government at the Customs House, to protest that Dublin had too many taxis. 23 In response to the strike Minister Boland, set up an “Informal Fact-Finding Committee” to investigate the taxi situation. A year and half later, in late May 1970, the taxi-drivers split again, with the newly formed group threatening to go on weekly strikes. The new Minister, Bobby Molloy met the different groups and in June 1970, the committee reported its findings with new regulations coming immediately into effect.

20 Irish Times 13 Jun. 1970
21 NAI 98/8/97 Letter from Hancock to Taoiseach 13/11/67
22 Irish Times 6 Apr. 1967
23 Irish Times 12 Dec 1968
Degree to which Groups’ Preferences are reflected in Outcomes and their Statements on the Outcomes

The Minister for Local Government introduced amending regulations\(^{24}\) after meeting the two delegations of taxi drivers in June 1970. The regulations provided that applications for taxi and hackney licences “may be made only from the first to the fourteenth day inclusive of March, June, September or December in any year.” The Minister also set up a further informal fact-finding “Committee on the Dublin Taxi Service”\(^{25}\) which reported in November 1971.\(^{26}\)

The Minister gave further assurances in the Dáil on 9 July 1970, to government backbench TDs, Sean Moore and Joe Dowling that he would introduce other regulations that would ensure those solely engaged in the taxi business could earn a livelihood from it.\(^{27}\) These regulations came into force in late August 1970\(^{28}\) and they met many of the taxi-drivers requests. The provisions included; an increase the fees payable for the licence; requirements for vehicles and drivers to be available for work for a minimum number of hours (five days and a minimum of 48 hours a week); that licences would only be issued for a vehicle less than two years old; a compulsory medical for taxi drivers; the taxi would have to be kept clean and tidy; the identity of the driver and the licensing of the vehicle was required to be displayed; and it would become compulsory that all Dublin taxis have a distinctive special orange mark. Applicants were also required to show the nature of their employment during the previous three years.

Following representations made by the taxi associations\(^{29}\), the regulations\(^{30}\) were amended to reflect further requests of the taxi drivers in late October 1970. Existing licencees were exempt from the proposed higher fees and the regulation that cars be less

\(^{25}\) Dáil Éireann Debate Vol. 223 No. 3, 27 May 1971
\(^{26}\) Inter-Departmental Report 1992
\(^{27}\) Dáil Éireann Debate Vol. 248 No. 6, 9 July 1970
\(^{28}\) S.I. No. 200/1970 — Road Traffic (Public Service Vehicles) (Amendment) (No. 2) Regulations, 1970
\(^{29}\) Interview Bobby Molloy
than two years old would not apply to existing taxis. Current licence holders were also exempt from undergoing a medical and the requirement that taxis have a distinctive yellow mark was removed because it was affecting taxi drivers' ability to get additional work as wedding-day chauffeurs. It is worth noting that the amendments generally favored the incumbents.

There is evidence to suggest that there, in fact, wasn't too many taxis or a shortage of business, when some of the taxi representatives were claiming there was. For example, The Irish Taxi Owners Co-operative Society, in June 1966 stated that "In a city like Glasgow with a population of more than one million, licences are issued for only 850 taxis, yet in Dublin with a population of just over half a million there are nearly 900 taxis and no limit". However, Ryan's Radio cabs and Blue cabs, the second and third biggest operators respectively, did not concur with the society's view. A Ryan's spokesperson said "anyone who runs his taxi efficiently has no worry about picking up trade" while the Blue cabs spokesperson said "we have our slack periods, of course, but at the moment if you wanted a cab we would have to ask you to wait for half-an hour" This was mid-afternoon mid-week.31

Period 1 Analysis

We see during this period that the taxi-drivers made some headway towards their stated goal of a cap on taxi licences by obtaining some important interim goals. The Government, following meetings, parliamentary questions, strikes and blockades, brought in regulations that restricted entry to fixed quarterly two week licensing periods and other regulations whose aim was to rid the service of part-time drivers. When some of the first set of regulations SI no. 200/1970 proved disagreeable to the drivers they were changed in SI no. 252/1970.

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31 Irish Times 17 Jun 1966
In this period, the Government reacted to the drivers' demands primarily by means of delay. They were slow to meet the drivers and to come to decisions. The Government acted when the taxi-drivers blockaded Dublin in December 1968, by commissioning and fact-finding report and again only act when the taxi-drivers threatened to strike in May 1970. The Government's primary position was to state that it didn't have the power under the existing legislation to introduce a limitation on licences.

The drivers, during this period, were in the primary stages of organisation. They disagreed on their central policy aim and remained split up until 1967. However, they started to build relationships with backbench TDs and had enough influence to get parliamentary questions asked on their behalf and to get to government backbench TDs to introduce their delegation to the Minister. During this period, they discovered a potent weapon in their ability to strike and blockade. The drivers during this period had limited influence however; it was on an upward trajectory.
5.3.1.2 Period 2 - 1973 - 1977

Timeline

The fact that the Government failed to introduce a cap on licences meant that the matter was not settled. The Fianna Fáil Government was replaced by a Fine Gael/Labour coalition after a general election in late February 1973. The taxi drivers of Dublin and Cork, immediately putting pressure on the new Government, held a strike and blockade of the cities in late May 1973; just prior to the two-week, June licensing window. The new Minister for Local Government, James Tully stated that he was suspending the issuance of licenses for one-year following the current period and that he would engage independent economic consultants to look at the issue. He also announced regulations, whereby applications for taxi licences would only be accepted in the period from 1 to 14 June each year. This meant that the next licensing period would be June 1975.

The Minister initially suspended this June 1975 licensing period until September but reversed the decision after he came under pressure from individuals who wanted to enter the industry. The ITF had sought the suspension and responded to the U-turn by holding two, one-day strikes and blockades over the licensing period.

In early February 1976, Minister Tully suspended the forthcoming June licensing period for three months until September. The ITF were granted a temporary injunction on the day before the September 1976 licensing period, restraining the government from issuing licences to persons not meeting the regulatory requirements designed to stop part-time drivers. In October 1976, the National Prices Commission, under instruction of the

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32 Irish Times 24 May 1973
34 Irish Times 5 Jun 1975
35 Ibid 10 Jun 1975
37 Irish Times 1 Sep. 1976
Minister, asked Hyland and Associates to examine the taxi and hackney services in Dublin, Cork, and Limerick. It recommended a limitation on licences.  

The Irish Taxi Federation threatened to strike in May 1977 on the first day of the RDS "Spring Show"; a very busy day in Dublin. The Minister met the taxi drivers on Monday 13 June 1977. The taxi drivers were threatening to strike three days later on the day of the forthcoming general election. The taxi drivers didn't strike; the government lost the election and it was replaced by a Fianna Fáil government.

The Actors' Preferences; Their Attempts to Influence Policy and Their Interaction with Decision-Makers

The taxi drivers, during this period intensely pursued their goal of stopping new licences (also known as “plates”) being issued. This is most plainly stated in a detailed submission, from the Irish Taxi Federation, to the Minister dated 27 February 1976. It stated in its first lines:

The Irish Taxi Federation has as its major objective the control of plates. The Federation represents 75% of taxi operators in Dublin and Cork cities. The majority of non-members are 'part-timers' providing a service only at peak periods.

The submission continued “among the major benefits which would accrue from the existence of a taxi board is the control of plates, a requirement long-sought by the federation.” It further requested that

...part-timers be removed from the business...The part-timer abuses the trade; has no commitment to the taxi business; diverts business from the full-time operator; seeks quick money and is a potential hazard on the road in that his other occupation(s) is invariably in the driving business.

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38 National Prices Commission - Study of Taxi and Hackney Services Aug. 1977
39 Irish Times 2 May 1977
40 Ibid 11 Jun 1977
41 NAI 2007/116/361 Submission to Minister for Local Government from the ITF
The regulations to rid the taxi industry of part-timers had proved to be unenforceable. They also, as we saw above, sought the establishment of a “Taxi Board” one of whose functions was to determine the issuance of licences.

The Government, on the whole, remained opposed to the control of licences but was willing to consider setting up the “Taxi Board” requested by the taxi drivers. The clearest expression of preferences is stated in a Memorandum to Government, written by the Department of Local Government, titled “Organisation of the Taxi Service” and dated 6 March 1975. It stated that “The Minister for Local Government proposes that following a comprehensive review of the current organisation of the taxi services, a broadly based body having corporate status should be established to oversee and control particular aspects of the service”. It further states that “the functions of the board will include” inter alia, the licensing of taxis; the setting of conditions to the granting of a licence with a view to improving the standard and level of service and protection of users” and the establishment of local committees in taxi meter areas. With regard to regulating competition in the sector the memo states that

The Road Traffic Act controls over the operation of public service vehicles are designed primarily in the interests of passenger protection...They are not exercised for the purpose of regulating competition within the passenger carrying activity...For a number of years taxis in Dublin and Cork who are organised in the Irish Taxi Federation have been pressing to have aspects of competition within the trade regulated...Measures that can be taken under existing legislation by amending regulations have not so far satisfied the taxi-men. Under the Road Traffic Acts the Minister has no power to limit the number of vehicles licensed.

In a further Memorandum to Government, from the Department of Local Government, dated 7 April 1975, the Minister for Local Government referred to the discussion by Government on 14 March and the memo above and submitted further clarifying

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43 NAI Ibid Memo to Government 7 Apr 1975

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information. The Department of Local Government envisaged that the taxi board would include,

1. taxi operators who would look after such issues as limitation of numbers, fare structure, livelihood of operators and condition of entry
2. Bord Fáilte whose interests would be on the adequacy of service, conditions of operations and restrictions on entry to business
3. Representatives of the Garda Síochána whose role would be the setting of general conditions and the assessment of the character of licence applicants

The memo further stated “with so many interests involved especially those on the side of the public it is confidently expected that emphasis would be on an improvement in the standards of the service”. However, an internal memo, \(^44\) dated 9 March and stamped “Seen by Taoiseach” took a different view. It stated “Pressure for the establishment of the board seems to come from the taxi operators themselves who would be represented on the board”. It further stated that “it may be taking too pessimistic a view but I think that the establishment of a board like this could not but lead to the limitation of numbers of persons engaging in the taxi business with consequent ill effects for the users of the service”.

A further indication of the opposition within Government came from the Minister for Justice, Patrick Cooney, who sent a letter to the Minister for Local Government stating that his department’s view was not adequately stated in the recent Memorandum to Government on the subject. \(^45\) The letter encloses minute 116/562/33 of a meeting on the issue on 3 September 1974. The minute states,

Any licensing system which seeks to restrict the number of licences tends to create a monopoly value in the licence itself and this can lead to the creation of interests which in turn can become an impediment to change and rationalisation. An example is the liquor licensing system under which licences have a “value” of many thousands of pounds without any

\(^{44}\) NAI 2005/151/497 Roínn an Taoiseach

\(^{45}\) NAI Ibid Letter from Cooney to Tully
public benefit arising therefrom and any move to provide for more flexibility in the granting of licences is bound to be resisted by existing licence-holders many of whom have had to “buy” their licences at figures reflecting their monopoly value.

The above quotes are revealing. They show that within government there was a clear understanding of the implications of introducing restrictions on licensing.

Opposition also came from the tourist industry. In a letter to the minister dated 4 May 1977, the Irish Taxi Federation (ITF) thank the minister for meeting their delegation and state “At that meeting you stated that you would have a further look at your regulations and would consider control of licences if the original objections by Bord Fáilte were withdrawn.” The letter further refers to a meeting of the ITF with Bord Fáilte. The letter claims that Bord Fáilte informed them that the Bord’s submission on the issue would be with the Minister that afternoon.46

The Minister for Local Government wrote to the ITF on 30 May 1977 stating that he had received the Bord Fáilte submission. It stated, contra to the ITF claim, “that they [Bord Fáilte] are wholly against the concept of limitation of licences but they may change on the establishment of a taxi board and the introduction of a standard type of cab”. It further stated “As regards suspension of the September licensing period I already explained to you that such a course is not open to me”.47

A customer’s perspective is given in a letter to the Irish Times on 21 May 1974. The letter writer referring to a recent bus strike stated that if taxi drivers charged an illegal premium during the strike, they should be reported. She further exhorted readers to put

...pressure on the Minister for Local Government to rescind that closed shop order issued last year whereby new taxi drivers were prevented from obtaining licences by members of the federation. Most of your readers

46 NAI 2007/116//361 Letter from ITF to Tully 4 May 1977
47 NAI Ibid Letter from Tully to ITF 30 May 1977

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will know that even when there is no bus strike in Dublin the taxi service is appalling due to the dearth of taxis in the city.

The drivers continued to exert pressure by seeking to meet the Minister and officials; by striking or threatening to go on strike at the strategically important times of busy periods or close to elections. For example, the drivers met the new Minister for Local Government, James Tully in early May 1973, where they sought to have the forthcoming June licensing period suspended. He gave an assurance that he would respond in two weeks. In a statement later that month, the Secretary of the ITF stated, “Three weeks have gone by and he has not made up his mind. We are not prepared to sit on the fence and wait. We are not getting a living out of the job. We want the number of taxis limited.”

The taxi drivers of Dublin and Cork went on a 24 hour strike, in late May 1973, in retaliation for the refusal of the Minister to suspend the June licensing period. During the strike the taxi-men marched at 11am from Parnell Street to the Custom House to hand in a letter of protest to the Minister. Also, in response to the licensing period going ahead in June 1975, the taxi drivers went on strike and blockaded the city twice during the licensing period, on 5 & 9 of June. In a statement, the taxi drivers said it was to protest at “the disastrous financial position of the men engaged in the taxi trade.”

Again, when the Government sought to increase the licensing fees, the ITF responded by threatening a 24-hour strike from 6am on 3 May 1977, the first day of the Spring Show and again they threatened to go on strike on 16 June 1977, the day of the general election.

The drivers also became more sophisticated by challenging the government through legal channels. The ITF sought legal means to stop the September 1976 licensing period. Martin Morris, secretary of the ITF said “All we are asking for is that the issue of new

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48 Irish Times 24 May 1973
49 Ibid
50 Ibid 5 & 9 June 1975
52 Irish Times 11 June 1977
licences be controlled until such time as there is sufficient work for the people already in the business. That is why we have asked our legal advisers if there is any way of stopping the September issue”. They were granted a temporary injunction on the day before the September licensing period, restraining the government from issuing licences “to persons not showing that they possessed, maintained, and used the vehicle in compliance with the regulations”.

The Federation, the following year also decided to challenge the Department’s view that it could not curtail licences under the current road traffic legislation. In a letter to the Minister for Local Government dated 13 May 1977, they enclosed a legal opinion from the respected law firm, McCann, Fitzgerald, Roche and Dudley. The letter stated that

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\text{It appears to us that Section 82 of the RTA 1961 does not restrict the minister from making regulations which would restrict the number of licences which might be given in a certain area, or would impose conditions on licences such as making the taxi available during certain hours each day.}
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**Degree to which Groups’ Preferences are reflected in Outcomes and their Statements on the Outcomes**

The taxi drivers were successful in getting the licensing period reduced from quarterly two-week periods to one two-week period per annum. The first licensing period after the new Government took office went ahead in June 1973, but in response to pressure from the drivers the Minister suspended licensing until June 1975. A cabinet minute dated 27 May 73, titled “Taxi Drivers agitation against over-licensing of Taxis in Dublin”, stated that the “Minister for Local Government mentioned that he intended to mention to taxi organisations that he was to propose to have only one licensing session per annum”. We see here that the new government is willing to immediately give a concession to the taxi-drivers in response to their threatened strike on the following day. The Minister

\[53\] Irish Times 1 Sep. 1976
\[54\] NAI 2007/116/361 Letter from McCann Fitzgerald Dudley and Roche to J&E Davy 6 May 1977
\[55\] NAI 2005/151/497 Memo to Government fro Minister for Local Government 24 May 1975

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issued an eleventh hour letter, prior to the strike, to the Irish Taxi Federation stating that he was willing to suspend the issuance of licences for one year from the 30th of June 1973. The strike went ahead anyway.\textsuperscript{56}

Giving official sanction to this promise, on 1 August 1973, Minister Tully announced regulations\textsuperscript{57} whereby applications for taxi licences would only be accepted in the period from 1 to 14 of June each year. The next licensing period was therefore due to occur in June 1975. Prior to this licensing period, the Minister announced that he was going to suspend the period for three months until September 1975 but due to pressure from individuals who wished to enter the business he later reinstated this period.\textsuperscript{58} The following year, the licensing period was suspended from June until September.\textsuperscript{59}

As we saw above, the drivers were also successful in persuading sections of Government of the need for a taxi board although some remain unconvinced.

**Period 2 Analysis**

During this period the taxi drivers make further headway towards their "major objective of the control of plates"\textsuperscript{60}. The drivers immediately sought and were granted a meeting with the Minister when he came to office; when he didn’t accede to their wishes they went on strike. Despite the first licensing period going ahead, the drivers immediately succeed in a further diminution of the licensing period to one two-week period and its suspension until June 1975. When this period went ahead, despite their efforts, they strike again. The drivers also succeed in persuading sections of the government of the need for a taxi board. However, again they did not succeed in achieving their major aim of a complete suspension of licences.

\textsuperscript{56} Irish Times 29 May 1973
\textsuperscript{57} S.I. No. 225/1973 — Road Traffic (Public Service Vehicles) (Amendment) Regulations, 1973
\textsuperscript{58} Irish Times 5 June 1975
\textsuperscript{60} NAI 2005/15/497 Submission by ITF to Minister for Local Government
This Government was less inclined to “long finger” meeting the taxi drivers. This was probably due to their increasing militancy. We also see clearly for the first time, that various government departments and Bord Fáilte formed a powerful opposition to the introduction of a limitation on licences. We further note that the Minister re-instated the June 1975 period due to lobbying by individuals wishing to apply for licences.

The drivers became more sophisticated during this period and displayed some tactical awareness. They put pressure on the Minister immediately he came into office by striking before and during the first licensing period. They also threatened to strike in the period before the general election and on the election day itself. They add a further weapon to their armoury, when in September 1976; they obtained an injunction to stop government issuing licences to “part-timers” in contravention of the law and they submitted legal advice to the government stating that the Minister could in fact suspend licensing.

The drivers during this period formed a cohesive group with no disagreements on major policy goals. They remained focused on achieving their primary objective of a complete cap on licences and their secondary objectives of stopping part-timers working in the business; of obtaining suspension of the licensing period if they could not achieve a licence cap and pushed government for a more easily controlled institutional structure, i.e. a Taxi Board. The taxi drivers during this period increased their influence over policy and maintained their upward influence trajectory.
5.3.1.3 Period 3 - 1977 - 1991

Timeline

As mentioned above, Fianna Fáil won the 1977 general election. The new Minister for Local Government Sylvester Barrett TD met the ITF just over a month after the election. Their immediate concern was to achieve a suspension of the forthcoming September licensing period. They invoked a letter they had received from Fianna Fáil prior to the election stating that in Government, they would suspend the licensing period for twelve months. The September licensing period was suspended at a cabinet meeting on 16 August 1977. In late September a case was taken in the High Court by taxi licence applicants stating the Minister was acting *ultra vires* when he suspended the licensing period. The case was thrown out in June 1978. It was appealed to the Supreme Court.

The Government decided to set up the requested Taxi Council and wrote to the taxi drivers in late July 1978 asking them to nominate representatives. The Government also decided to proceed with the September 1978 licensing period because their decision to suspend the previous year’s licensing period was subject to a Supreme Court appeal and they had met their side of their pre-election commitment by suspending the issuance of licences by one year.

The drivers responded by refusing to appoint members to the Taxi Board, and by blockading Butt Bridge and the offices of the Department of Environment. (The Department of Local Government was renamed the Department of Environment on 16

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62 NAI 2007/116/132 Letter from “Runai an Rialtais” to Dept. Of Local Government
63 Irish Times 22 Sep. 1977
64 Ibid 20 Jun 1978
65 Ibid 26 Aug. 1978
August 1977) The strike ended after a deal with the Minister that saw the setting up of the “Taxi Services Council” and ultimately the power to issue licences devolved to the local authorities.

On 1 December 1978, the Supreme Court upheld the decision of the High Court that the Minister was within his powers in restricting the number of licences. Dublin Corporation issued some licences subsequently in 1979. A group of Cork taximen sought and obtained a temporary injunction to halt the issuance of licences by Cork Corporation in 1979. No further licences were issued until the early 1990’s. During the recessionary years of the 1980’s the regulation of taxis commanded very little attention. There were some minor attempts to suspend the moratorium during the 1980’s with no success. However, these attempts and the subsequent lobbying by taxi drivers helped them to forge relationships and friendships with young local politicians who would become national figures in the 1990’s.

The Actors’ Preferences; Their Attempts to Influence Policy and Their Interaction with Decision-Makers

The taxi drivers continued to seek a cap on the issuance of licences and the establishment of a “Taxi Board”. Fianna Fáil had promised, if elected, to suspend the issuance of licences for twelve months. When the taxi drivers sought to have this promise fulfilled, we see from a Memorandum to Government (VF 12/25) titled “Taxi Services” that the Department of Local Government tried vainly not to have the period suspended. The memorandum states

> It is the Minister’s view that the period shouldn’t be suspended and that the letter from Fianna Fáil should not be read as implying that no

70 Irish Times 2 Dec. 1978
71 Ibid 16 Mar. 1979
72 Ibid 18 & 24 May 1979
73 Ibid 27 May 1986
74 NAI 2010/53/302 Letter to Taoiseach from National Association of Transport Employees 6 Feb 1978
opportunity to apply for a taxi licence would be available for a two-year period. It can be reasonably regarded as an undertaking that no further licensing period from September 1977 will take place.

It also states "The Minister is advised as was his predecessor...the provision of only one licensing period is already close to the wind." It further states that in connection with this, his predecessor at a meeting with the Irish Taxi Federation in June 1977 told them that he felt obliged to retain the only licensing period that year.\(^{75}\)

Despite this, the cabinet approved the suspension. The September 1977 licensing period did not proceed.\(^{76}\) In response some taxi licence applicants took a case against the Minister to the High Court\(^{77}\) and when this failed, they appealed to the Supreme Court.\(^{78}\) The Government tried to use this as cover to allow the 1978 licensing period.\(^{79}\) When they announced this, they also announced that the Government was going to grant the drivers’ wish for a “Taxi Board”. The Minister wrote to the ITF on 1 August 1978 inviting them to nominate representatives for appointment to a “Taxi Services Council” under the aegis of his Department.\(^{80}\)

In response to the licensing period proceeding, the taxi drivers refused to nominate representatives and voted to go on strike.\(^{81}\) The strike was scheduled to last four days in late August. The taxi-drivers blockaded Butt Bridge (and the offices of the Department of the Environment) during this period.\(^{82}\) A memo to the Taoiseach stated that 14 taxis had been abandoned on Butt Bridge at 11am but they had been cleared by 4.15pm.\(^{83}\)

\(^{75}\) NAI 2007/116/132 Memorandum for Government Taxi Service Dept. of Local Government 3 Aug 1977
\(^{76}\) NAI 2007/116/132 Letter from “Runai an Rialtais” to Dept. Of Local Government
\(^{77}\) Irish Times 22 Sep. 1977
\(^{78}\) Irish Times 2 Dec. 1978
\(^{79}\) Irish Times 29 Aug. 1978
\(^{80}\) NAI 2010/53/302 Government Information Service 28 Aug. 1978
\(^{81}\) Ibid
\(^{82}\) Irish Times 26, & 28, Aug 1978
\(^{83}\) NAI 2010/53/302 Memorandum to Taoiseach 28 Aug 1978
The Minister struck a deal with the taxi-drivers and the strike “ended suddenly” on the afternoon of Wednesday 29 August. Mr. Barrett agreed to postpone the issuing of the impending 300 extra licences by cancelling the licensing period for a month until the first two weeks in October in response to the nomination by the ITF of two representatives to the Taxi Services Council. The council was asked to advise the Minister by the start of October.

At the first meeting of the Council on 12 September 1978, Mr. Barrett asked it to give priority to the issues surrounding the granting of licences and to the limitation of the number of taxis. A week later on 20 September, he announced that the October licensing period would now be postponed until the first two weeks in November. This was to enable the drafting of new regulations, after the Council had made recommendations to him. On 27 October 1978, the Government Information Service stated the Minister for the Environment had made regulations in agreement with the Taxi Services Council. The Taxi Services Council also prepared a set of guidelines for the issuance of licences by the local authorities.

The principal change was that from 1 November 1978, it would be a function of the different local authorities to determine the number, if any, of licences issued. If the number of applications exceeded the number of licences, the outcome would be decided by lottery. The immediate effect of these regulations was that the November licensing period was delayed.

A protest meeting of cosy-taxi drivers (a “cosy” was a taxi driver who rented the taxi from the licence owner) met on Friday 26 January 1979 to protest at the non-issuance of

84 Irish Times 30 Aug 1978
86 Irish Times 30 Aug. 1978
87 Ibid 13 Sep. 1978
89 Irish Times 21 Sep. 1978
92 Interview John Weafer
licences following the suspension of the previous September’s licensing period. A newspaper report states “Many of the men are already working as taxi drivers for owners of licensed vehicles but have applied for “plates” for their own cars.” Mr. Martin Morris and Mr. Joe Heron of the ITF spoke at the meeting but were heckled by members of the audience. The full-time taxi drivers held a one-day strike on 16 March 1979 in protest against the recent decision to grant 150 licences after the Dublin Corporation traffic sub-committee had decided to issue the new licences. This decision was approved by Dublin Corporation on 7 May 1979, due to the “great difficulty in trying to get taxis”. There were 404 applicants. No further licences were issued in Dublin until 1991.

An interesting insight into the taxi drivers’ attempts to influence policy is revealed in May 1986. The National Association of Transport Employees organised a tour of the Dublin city taxi ranks for Alderman and future Taoiseach Bertie Ahern, Councillor John Stafford and various journalists. The function of the tour was to “make the point that it would be “disastrous” to issue more plates in the city”. Union leader Tommy Gorman, showed the councillors and the press, the overcrowded ranks just before midday”. This interaction is evidence that the taxi drivers were building relationships with local politicians during the quiet decade of the 1980’s who would in the 1990’s, become national politicians. One taxi driver activist noted, “When it was the local authorities who had power we concentrated our efforts on the local authorities when it was the Dáil we concentrated on the Dáil”. Several of the interviewees in relation to the taxi case study, opposition politicians and the newspapers cited the close relationship between Fianna Fáil, particularly their leader in the 1990s Bertie Ahern and the taxi drivers as being a key element in the taxi lobby’s influence.

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93 Irish Times 27 Jan 1979
94 Irish Times 14 Mar. 1979
95 Ibid 8 May 1979
96 Ibid 14 Feb 1992
97 Irish Times 27 May 1986
98 Interview Des Dempsey
99 Interview Olivia Mitchell, Irish Times 18 Nov. 2000
Degree to which Groups’ Preferences are reflected in Outcomes and their Statements on the Outcomes

The taxi drivers are very successful in this period. They succeed in getting the 1977 licensing period cancelled, while the 1978 licensing period is delayed. Dublin Corporation eventually succeeds in issuing 150 licences. They further succeed in having the Taxi Services Council appointed and the devolution of taxi licensing policy to the local authorities. A group of Cork taximen sought and obtained a temporary injunction to halt the issuance of licences by Cork Corporation in 1979. Importantly, the Supreme Court had upheld the decision of the High Court that the Minister was within his powers in restricting the number of licences, in December 1978. After the injunction and Supreme Court ruling, no licences were issued until 1991. The taxi drivers after a long campaign had finally succeeded in achieving their major policy aim.

An indication of the demand for taxis at the time can be found in letters by the barrister and author Ulick O’Connor to the newspapers; in one letter he states “That the Minister’s Department is aware of the lack of taxis in Dublin at present was made clear to me when I went...to see the Minister of State, Mr. John O’Leary. He told me of the frustration of members of the Dáil in trying to get taxis at weekends to get to different railway stations. One TD used to be sent out to various ranks to come back with a taxi for the others because of the scarcity”100 in another letter, he states “There is...an appalling shortage of taxis due to Government restrictions of licences.”101 In addition, Senator Trevor West in May 1979 raised the issue of “Dublin’s taxi service or lack of it.”102

A further indication of the shortage of taxis licences is in the monopoly price they commanded. In September 1982, an article in the Irish Times discusses the issue of overcharging by taxis. It states the “Carriage Office said they receive around a letter a week from a tourist complaining about being milked” Martin Morris of the ITF states that business has never been worse. The article continues,

100 Irish Times 3 Mar. 1979
101 Ibid 8 Aug. 1978
102 Seanad Éireann Debates Vol. 92 No. 4 31 May 1979
Taxi plates no longer change hands for the £8,000 they brought two years ago...They are down to £3,500 these days considered to be a snip and a sign that taxi drivers are right about one thing: that 1,850 taxis are more than enough for a city of a million souls.103

The decline in licence value occurred due to the severe recession that hit Ireland from 1981. A further indication of the value of licences was the fact that three Gardaí from the Carriage Office were charged (in Jan 1984 and Feb 85) with selling illegally issued taxi licences for £7,250, £5,000 and £6,500 respectively in 1981.104 It is also interesting to note that the Education correspondent with the Irish Times, Christina Murphy states,

To get into the taxi business in Dublin you must first get a licence and as no new licences are now being issued, the only way to do this is to buy one from a retiring licence holder. They used to change hands at up to £10,000 but as business has declined the price has fallen to £5,000-£6,000.105

We see from the above that even during the recessionary years of the 1980’s the licences commanded a price reflecting their monopoly value. (The average industrial wage in 1981 was £6,387.70)

**Period 3 Analysis**

Following years of attrition, the taxi drivers finally achieved their major policy goal of stopping licences being issued. This was achieved through the taxi drivers being granted their request for the establishment of the “Taxi Services Council” and a Supreme Court judgment stating that the Minister had within his powers the ability to control licences. The Minister following the advice of the Taxi Services Council delegated the function of licence issuance to each local authority. A small number of licences were issued in 1979

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103 Irish Times 2 Sep. 1982
104 Irish Times 12 & 19 Jan 1984, & 21 Feb 1985
105 Ibid 14 Nov. 1984
with no further licences being issued until 1991. The licences began to attract monopoly values in the early years of the 1980's.

The taxi drivers as a lobby group had by the late 1970's grown significantly in sophistication. Their tactics advanced from seeking meetings with ministers, to striking, to blockading, to seeking court injunctions and to obtaining pre-election promises from political parties. Taxi drivers as a group were now influential enough to achieve their major policy aim. They were also sophisticated enough to realize that in order to maintain their position; it was important to build relationships with decision-makers. The taxi drivers display a high level of influence during this period.
5.3.1.4 Period 4 - 1990 - 1997

Timeline

The taxi licencing issue was discussed by Dublin City Council’s traffic sub-committee in the Spring of 1990; little arose out of the investigation.\textsuperscript{106} In May 1991, the then Minister for the Environment Padraig Flynn appointed an “inter-departmental” committee whose terms of reference were “to examine the law, regulations and procedures relating to the control and operation of all small public service vehicles and to make recommendations for any changes necessary to ensure that the services provided by such vehicles meet the needs of the public.”\textsuperscript{107}

The committee reported interim recommendations, which the Minister regulated for in late October 1991\textsuperscript{108}. These included the granting of 100 new licences and a moratorium on the issuance of hackney licences. The regulations also took the power to issue licences back from Dublin City Council. During this period, the focus also fell on the bus service. Taxi drivers and others pointed out that the bus service brought a large number of people into the city centre but shut down, at 11.30pm, before the vast majority of these people wanted to go home. Consequently, the full burden of transporting people out of the city, in the early hours fell on the taxi service. In response, a limited night bus service was set up.

The final inter-departmental report was published in July 1992. The new Minister, Michael Smith announced an increase of 50 licences and ended the moratorium on hackney licences. In response to the taxi drivers held a series of protests and blockades

\textsuperscript{106} Irish Times 12 Apr. 1990
\textsuperscript{107} Report of Inter-Departmental Committee, Stationary Office, Dublin 1992
over the following months. They also took a court case regarding the new regulations in which they were ultimately unsuccessful.

The recommendations of the committee and the introduction of the late night bus service, improved the situation to some extent. Further, media and political attention was distracted during the busy Christmas periods of the following three years. Coming up to the Christmas period, 1992, the Fianna Fáil/PD coalition collapsed in the aftermath of the Beef tribunal report. In December 1993, the Irish and British Governments signed the "Downing Street Declaration". While the "Rainbow coalition" of Fine Gael, Labour and the Democratic Left, came into power in December 1994 following the collapse of the Fianna Fáil/Labour coalition due to the Fr. Brendan Smith scandal. Consequently, there was little activity on the issue until late July 1995, when the then Minister for the Environment, Brendan Howlin returned the power to licence taxis to the local authorities and introduced a moratorium on the issuance of hackney licences.

In, the first half of 1996, Dublin City Council attempted to increase the number of licenses by 200 but following protests and lobbying by the taxi drivers it was forced to reduce the increase to 100 licences. An unusual feature of the governance of the taxi market in Dublin was that it had remained under the sole control of Dublin City Council after the old Dublin County Council, Dublin Corporation and Dun Laoghaire council areas had been rearranged into four administrative areas – Dublin City Council, Dun-Laoghaire Rathdown Council, South Dublin County Council and Fingal. The three non-governing councils became increasingly frustrated with Dublin City Council’s inability to satisfactorily solve the taxi problem. By November 1996, talks between the four local authorities on a satisfactory taxi regime had broken down. Members of Dun-Laoghaire Rathdown (DLR) accused Dublin City Council of dragging its heels on the matter. Some

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DLR councillors said that DLR had no option but to investigate forming its own taximeter area.\textsuperscript{112}

This and the increasing dissatisfaction of the public forced Dublin City Council to pass a motion to issue 200 wheelchair-accessible taxi licences in February 1997. The taxi drivers launched a series of protests and blockades during the autumn of 1997, one notably on the day of the Presidential election.

**The Actors’ Preferences; Their Attempts to Influence Policy and Their Interaction with Decision-Makers**

The taxi drivers remained implacably opposed to any issuance of licences. They protest and blockade habitually when there is any proposal to increase licenses. The Irish Times reported in April 1990 that the ITF were "vigorously opposed to any increase in the number of plates issued" and that they claimed that it was difficult to make a reasonable living as a taxi driver.

The traffic sub-committee of Dublin City Council took submissions from "11 different groups including, \textit{inter alia}, the taxi plate owners, the "cosy" drivers, Bord Fáilte, the Irish Hotels Federation, the Dublin Transportation task force and the Carriage Office" during their investigation in 1990. Cosy-drivers wanted 600 new licences issued. The Dublin City Centre Business Association had commissioned a survey, which showed that waiting times for taxis in the pre-Christmas week were as long as 30 minutes and concluded that there was a shortage of taxis. Dublin City Council did not issue any new licences as a result of these investigations.\textsuperscript{113}

In setting up the inter-departmental committee, The Minister for the Environment, Padraig Flynn said that the committee should recommend any changes necessary "to ensure that the services provided by such vehicles meet the needs of the public". He

\textsuperscript{112} Irish Times 26 Nov. 1996
\textsuperscript{113} Ibid 12 Apr. 1990
expressed concern at recent reports that taxi licences were being sold for sums of £40,000 to £50,000. He stated "If licences can command these prices, there must be a strong case for reviewing the number of licensed taxis on the streets of Dublin. This question must also be looked at in the light of complaints about acute shortages of taxis at certain periods and the waiting times for those who need a taxi."^114

When the 100 licences recommended by the interim inter-departmental report were being issued, the President of the Irish Taxi Drivers' Federation, John Ussher described receiving one of the new licences as "like winning the Lotto". Martin Morris of the Irish Taxi Federation stated "the new licences were completely unwarranted. Christmas is the only time of the year we are busy".115

Columnist Kevin Myers writing on 19 December 1991, under the sub-heading "Legal Monopoly" notes

Now upon leaving your pub or dinner party or restaurant, not uncommonly in this country, you are probably over the limit. So you call a taxi. Except you can't. Try it any Friday or Saturday after midnight, never mind this appalling weekend. You will be refused. Sorry, no telephone bookings, all our cars are busy for the next three hours is the standard answer. And from midnight on, taxi queues are normally 50 people long...And there is one good reason for this. There are not enough taxi-drivers in Dublin any time of year, never mind the unspeakable horrors of this weekend. The recent issue of 100 plates was the first in 21 years (sic) and remember, one hundred new plates is not one hundred extra taxis on the road all the time; it might mean 40 cars on the road at one time. One good queue would swallow the lot.116

The Irish Times devoted a full article, after Christmas 1991 to the issue

Certain occupations tend to arouse hostile emotions in people – pompous bank managers, persistent landlords, obsequious politicians. Taxi drivers took their toll this Christmas. For those who depend on the taxis the

114 Irish Times 17 May 1991
Christmas and New Year period was a nightmare. By common consent anyone looking for a taxi after 11pm was wasting his or her time... "The taxi service this Christmas was absolutely diabolical" says Tom Ivors, commissionaire of the Burlington Hotel "Generally speaking after 11pm you couldn't get a cab for love or money... Hotels, pubs, nightclubs and ordinary people were affected at Christmas but ordinary weekend nights in Dublin can see almost equal chaos. If you ring up for a taxi at 5pm, you won't get one and that includes today, an ordinary day, because its wet, there's lot of traffic and they have plenty of money from Christmas said Noel Sheehan of the Shelbourne Hotel.\textsuperscript{117}

The final inter-departmental report was published in July 1992. It did not recommend deregulation but said licences should be issued where there was an identifiable need.\textsuperscript{118} The new Minister for the Environment Michael Smith announced an increase of 50 wheelchair accessible taxi licences. The ITDF organised a protest convoy to coincide with the report's publication which caused serious disruption to Dublin traffic.\textsuperscript{119} The drivers held another blockade in late August and blockaded the Minister's hometown in September.\textsuperscript{120}

The taxi-drivers also took a judicial review of the inter-departmental report and were granted an injunction restraining the Minister from lifting the moratorium on the issuance of hackney licences. They claimed that the decision infringed their constitutional property rights.\textsuperscript{121} The drivers were ultimately unsuccessful in their case and the injunction was lifted on 31 July 1992.\textsuperscript{122}

Christmas 1995 was a difficult period for taxi users in Dublin. So much so that it was reported in the newspapers, early in 2006, that Dublin City Council, having being returned the power to issue licences in July 1995, were considering issuing 500-600 new

\textsuperscript{117} Irish Times 23 Jan. 1992
\textsuperscript{118} Inter-Departmental Report Stationary Office Dublin p. 4
\textsuperscript{119} Irish Times 2 Jul. 1992
\textsuperscript{120} Ibid 28 Aug & 23 Sep. 1992
\textsuperscript{121} Ibid 11 & 14 Jul. 1992
\textsuperscript{122} Ibid 1 Aug 1992
plates. The President of the ITDF John Ussher said he was "horrified" by the proposal. The taxi and hackney sub-committee of Dublin City Council recommended issuing 200 licences to the council in early February. Other measures included lifting the moratorium on hackney licenses; issuing up to 600 new taxi licences over a four-year period and also 300 "seasonal" plates that would operate in the Christmas period.

The council voted for an increase of 200 licences in early March. The taxi drivers reacted with fury to this development. They organized a mass protest two days later. The move was condemned by the President of the ITDF, Mr. John Ussher as "disgraceful... the whole trade is in shock". The protest, on 6 March 1996, proceeded in convoy from the Phoenix Park to the Council's offices on Wood Quay, causing serious traffic delays en route. At the Council's office, 200 drivers crowded the reception area in order to deliver a letter.

The taxi drivers held a further protest and blockade on Wednesday 20 March. It was led by a horse drawn hearse which carried signs "Fined (Sic) Gael/Labour Executioners of the taxi trade" and "RIP: Taxi". A letter of protest was handed into Government Buildings. A strike from 4pm to 8pm and protest march was organized for Monday 1 April 1996, the day the councilors were to further discuss the taxi situation. At the council meeting both Fianna Fáil and the Democratic Left tried to have the number of new taxi licences reduced without success.

On Monday 27 May 1996, the council debated a Fianna Fáil motion proposed by Ivor Callely, to rescind the decision to issue 200 new licences and allow 100 wheelchair accessible licences. The drivers, with their families, again protested through the city centre during rush hour, from Parnell Square to City Hall. The march caused serious

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123 Irish Times 17 Jan 1996
125 Ibid 6 Mar. 1996
126 Ibid 21 Mar 1996
127 Ibid 1 Apr. 1996
traffic delays. The motion was successful; 27 councillors supported the motion with 15 against. 128

As Christmas 1996 approached, conflicting proposals were made to the traffic subcommittee of Dublin City Council: one was to re-instate the moratorium on the issuance of hackney licences while the other asked that 200 new licences be issued. These proposals were rejected at a meeting of the sub-committee on Monday 9 December 1996. 129 On Tuesday, 17 December 1996, the three non-taximeter Dublin Authorities met to press ahead with plans to set up a second Dublin taximeter area. 130 This forced the hand of Dublin City Council who passed a motion on Monday 3 February 1997 to issue a further 200 wheelchair accessible taxis; increase the taximeter area; and increase the fee for licence renewal. 131 The taxi drivers planned a series of protests during the autumn of 1997. John Ussher said there would be a series of stoppages until the drivers’ grievances were addressed. The first was held on Thursday, 30 October 1997, the day of the Presidential Election. 132

On the day of the election drivers had been asked to attend a meeting at 5am outside the GPO to consider actions that might be taken during the day. Actions that were mooted in the press in the period leading up to the day of action were to protest at the Department of the Environment, Government Buildings or the Civic Offices at Wood Quay and possibly all three. John Ussher also said that more militant elements within the association wanted pickets placed on Dublin City Council’s sanitary departments in order to block refuse collection in the city. 133 Prior to the protest, the Council announced that they had appointed economic consultants Oscar Faber to conduct a review of the taxi market. Ussher maintained that this was not enough to call off the action. 134

128 Irish Times 27 & 28 May 1996
129 Ibid 10 Dec. 1996
130 Ibid 17 Dec. 1996
134 Ibid
300 taxis blocked O’Connell St and then proceeded as rush hour began to move in convoy to the Civic Offices. The convoy caused massive disruption to rush hour traffic. At Civic Offices scuffles broke out as taxi drivers, linking arms, prevented a Garda tow truck from removing abandoned taxis. The taxi representatives had an 80-minute meeting with Council officials and were told that their grievances would be referred to the consultancy body. The protest broke up a 4.30pm. The Dublin Chamber of Commerce described the protest as outrageous and an abuse by taxi drivers of their position. John Ussher claimed that it hadn’t been the intention of the taxi drivers to cause chaos. He further stated that the protest was only day one and that further protests would happen.

Dublin City Council also revealed that they had received 1,100 applications for the 200 new licences on offer, many from existing taxi drivers.

Degree to which Groups’ Preferences are reflected in Outcomes and their Statements on the Outcomes

The shortage of taxis first came on the agenda of the Dublin City Council’s traffic sub-committee in the spring of 1990. The council’s failure to deal with the issue led to the Department of Environment’s intervention in setting up the inter-departmental committee in May 1991. Its interim report led to the issuance of 100 licences with the final report leading to a further 50. The taxi drivers were deeply unhappy with these developments. As we saw above the drivers’ reaction to these small increases in numbers was one of total opposition.
Commenting on the reaction of the drivers to the recommendations of the final interdepartmental report and subsequent blockade, Minister Smith described the drivers’ protest as “irresponsible, unnecessary and uncaring”. He said the drivers were a “privileged group” showing total disregard for the effects of their actions on the economy, the business community and the citizens of Dublin. He further said that he did not accept that “the holders of taxi licences, with a resale value of up to £40,000 are on the breadline”.142

When Smith’s successor, Brendan Howlin announced new regulations in late May 1995, we see that he did not introduce any further licences; he handed back the licensing system to the more easily influenced local authorities and introduced a moratorium on hackney licences. The ITF “broadly welcomed” the new regulations while the MPGWU representing hackney drivers “strongly criticized” them.143 The MPGWU was the union that represented hackney drivers.

The Drapier column points out the realpolitik of the issue. Drapier was a nom de plume first used by Jonathan Swift, the author of Gulliver’s Travels. In the 1990’s, the Drapier column was written anonymously by various politicians from all parties and none. The article states:

We have again this time around an ever increasing list of published pre-budget submission to the Minister [for Finance]. If the Minister engages in ritual noises so too do the various interest groups. Drapier never ceases to wonder at what an extraordinary narrow view they take of the economy. They care not tuppence what damage their submissions would do to the economy generally, as long as it suits their particular interest...We are reminded by economists of the unnecessary value of what the State gives out by way of licences. By limiting the number so severely, the value of the licence, whatever it may be, goes up enormously. We are told that taxi licences in Dublin now fetch huge sums, but anyone who tried to get a taxi, in Dublin at least, over the extended Christmas period can vouch for their extreme scarcity. Brendan Howlin and Dublin Corporation decline to

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142 Irish Times 29 Aug 1992
143 Irish Times 2 Jun. 1995
issue any more licences because the clout of the taxi-owners is too great.\textsuperscript{144}

When Dublin City Council tried to issue 200 licences in early 1996, they were forced, through lobbying, protest and blockades to reduce this to 100. Mr. John Ussher of the ITF, in response to the reduction in the number of licences issued said he was “rather pleased” with the change of mind. The Irish Times reported that “At an impromptu meeting outside the City Hall afterwards, however, members [of the ITF] were unequivocal in their enthusiasm for the councilors”.\textsuperscript{145}

A proposal to issue 200 licences was rejected in early December 1996. This was despite evidence given by certain councilors of the extent of the problem. Councillor Carmencita Hederman said queues of nearly 100 people were outside Heuston Station at 11am while Christy Burke said there were queues up to a ¼ mile long at some ranks in the early morning.\textsuperscript{146}

In mid December 1996, 18 members of Dublin City Council released a letter saying that they supported the issuing of 200 new plates despite a majority vote against the proposal at the recent meeting. The letter states “the taxi lobby is extremely strong and well organized and we therefore urge long-suffering taxi users to contact their local city councillor urging them to vote in favor of more taxis”.\textsuperscript{147} The motion had been defeated when Fianna Fáil and some independents voted against it. Cllr. Noel Ahern TD said Fianna Fáil wanted “to keep the taxi drivers involved in the negotiations” and that “people should remember that the taxi drivers originally did not want any plates issued. We at least got them up to a 100, which we regard as a first step.”\textsuperscript{148}

\textsuperscript{144} Ibid 6 Jan 1996
\textsuperscript{145} Irish Times 28 May 1996
\textsuperscript{146} Ibid 10 Dec. 1996
\textsuperscript{147} Ibid 19 Dec. 1996
\textsuperscript{148} Ibid 17 Dec 1996
By Christmas 1996, the shortage of taxis was the number one topic of conversation. Everyone relying on the taxi service suffered. Emmet Oliver a journalist with the Irish Times described a typical night in pre-Christmas Dublin city centre. By 7pm the taxi firms were reporting brisk early business. At 10pm there were 18 taxis queuing at the rank in Stephen’s Green, reflecting the peak-slump nature of the taxi market. The reporter said that there was a constant turnover of customers seeking taxis. By Midnight the first queues formed at the rank on Dame St, by 1am this increased to more than 50 people, by 2am the queue contained 120 people and at 3am this had increased to 230 people. By 4am the queue was still about 15 people. In a letter to the same newspaper on 20 December, a reader stated that he was “amazed to see people standing in the cold for up to two hours to get a taxi”. In a further example of the attention the issue was receiving at this time, “Nationwide” a current affairs programme, produced by the state broadcaster RTE, featured a piece following the problems three young women faced in getting taxis home from the city-centre after a night out during the festive season.

When the three non-taximeter Dublin Authorities met to press ahead with plans to set up a second Dublin taximeter area and effectively forced Dublin City Council to pass a motion to issue 200 wheelchair accessible taxis; the taxi representatives reacted according to their long held position, with John Ussher describing the decision as “ignorant” and “a disaster for the trade”. He further promised “lots of protests over this”. We see above that true to his word, the taxi drivers launched a series of protests and blockades in the following months culminating in the blockade of Dublin on the day of the presidential election.

**Period 4 Analysis**

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149 Irish Times 17 Dec. 1996  
As the economy began to expand the flaws in the taxi regulatory regime became apparent, particularly in Dublin. The taxi-drivers held doggedly to their long time preference of maintaining a strict cap on the numbers of licences. During this time opposition emerged from groups like the Dublin City Centre Business Association, the Dublin Chamber of Commerce, and a reemergence of old antagonists like Bord Fáilte. Dublin City Council met eleven groups in trying to come to a solution but the support the taxi-drivers had on Dublin City Council proved insurmountable and no new licences were issued.

Central Government ordered a report on the issue and re-established itself as the regulator of the sector. On publication of the interim and full reports, the government makes relatively timid changes to the number of taxis available. In response the taxi drivers launch a series of strikes and blockades. The drivers also sought unsuccessfully to use the courts to stop the issuance of licences. Central Government effectively washed its hands of the issue in 1995 and returned the regulation of the issue back to Dublin City Council that had previously shown itself to be incapable of dealing with the issue. When the taxi lobby succeeded in forcing Dublin City Council to reduce the number of new licences to be issued from the small amount of 200 hundred to 100 in May 1996, the other Dublin local authorities that did not have a taxi service expressed their disquiet that Dublin City Council did not seem to be capable of regulating a policy that affected citizens in their area. In response they threatened to set up a taximeter area of their own. This threat of a second Dublin taximeter area forced Dublin City Council to become more amenable to reform.

As the decade advanced, and the situation worsened, the press, some politicians and the public became more vociferous in relation to the taxi situation. Taxi-drivers maintained good access to both local and national politicians. At this time, some TDs and councillors became recognizable as supporters and spokesmen for the taxi lobby.
The taxi drivers attempted to influence policy by lobbying politicians (in friendly and unfriendly ways), and by causing as much disruption to the public as possible. In response to these attempts to influence policy, politicians in general acted timidly and the taxi-drivers were largely successful in maintaining their monopoly position. When licences were issued, they were inadequate numbers.

The taxi drivers are clearly highly influential with regard to licensing policy during this period. In the face of growing opposition they are able to largely maintain their privileged position. However, as this period progressed, their inability to act strategically attracted opposition to their cause and their influence from a high level begins to decline.

5.3.1.5 Period 5 - 1997 - 2001

Timeline

Just prior to the taxi-drivers blockading Dublin, on the day of the Presidential election, Dublin City Council appointed economic consultants Oscar Faber to examine the issue.\textsuperscript{152} The new Taoiseach, Bertie Ahern and former Dublin City Councillor, also met the taxi-drivers. A government spokesperson said that the meeting had been arranged prior to the election-day blockade. Ahern proposed that a “Dublin Taxi Forum” be established.\textsuperscript{153}

In the run-up to Christmas 1997, Trinity College Dublin economists, Fingleton, Evans, and Hogan and the Dublin Chamber of Commerce both published studies into the Dublin Taxi Market.\textsuperscript{154} Both stated that there was a severe shortage of taxis in Dublin. The interim Oscar Faber report was presented to the local authorities during the Christmas season 1997.\textsuperscript{155} The final report was debated in early June 1998 by the four local

\textsuperscript{152} Irish Times 30 Oct. 1997
\textsuperscript{153} Ibid 7 Nov. 1997
\textsuperscript{154} The Dublin Taxi Market: Re-Regulate or Stay Queuing Studies in Public Policy 3 The Policy Institute Trinity College & Taxi Services in Dublin: A New Approach Dublin Chamber of Commerce Dec. 1997
\textsuperscript{155} Irish Times 31 Dec. 1997
authorities where they set up a committee to consider the report.\(^{156}\) The Dublin Taxi Forum reported in early September 1998.\(^{157}\)

Early in the New Year, the Tánaiste, Mary Harney stated that the previous Christmas would be the "last Christmas of taxi mayhem".\(^{158}\) 11 months later, on 30 November 1999, her party colleague, Minister of State for the Environment, Robert Molloy announced proposals to resolve the issue that would see existing drivers being granted 2,600 of the proposed new 3,100 licences.\(^{159}\) The reaction of the taxi driver was swift; they immediately went on strike for two days.\(^{160}\)

Molloy refused to amend the proposal despite vigorous opposition from the taxi drivers. The Government brought into force regulations on 13 January 2000 that allowed existing taxi drivers to apply for an extra licence. However, a group of hackney drivers threw the Government’s plan into chaos when they sought a judicial review in early February, challenging the Minister’s power to issue licences exclusively to existing taxi drivers. This stalled the scheme until the High Court ruled in autumn 2000. It stated that the Minister was acting \textit{ultra vires} in favouring existing licence holders. New regulations were introduced on 21 November 2000 that completely removed any numerical restrictions on taxi licences.

In response, the taxi drivers blockaded the streets of towns and cities, the airport and the Houses of the Oireachtas. The taxi leaders met Minister Molloy the following Tuesday 28 November. There were violent and ugly scenes in a protest outside Leinster House. Molloy stood firm on taxi deregulation however agreement was reached to set up a committee to discuss the consequences of the new regulations.

\(^{156}\) Irish Times 5 Jun. 1998  
\(^{157}\) Ibid 3 Sep. 1998  
\(^{158}\) Sunday Business Post 4 Jan. 1999  
\(^{159}\) Dáil Éireann Debate Vol. 511 No. 6 31 Nov. 1999  
\(^{160}\) Irish Times 2 & 3 Dec. 1999
Tommy Gorman of the NTDU also applied to the courts to challenge the decision to deregulate the industry. The High Court on Friday 23 March 2001 upheld the decision of the Government to deregulate the market. The problem of the shortage of taxis in Dublin was finally solved.

The Actors' Preferences; Their Attempts to Influence Policy and Their Interaction with Decision-Makers

The taxi-drivers remained committed to keeping the number of taxi licences issued to the bare minimum, although by late 1999 even the taxi representatives recognized there was a problem. John Ussher stated “We accept we have to improve the service we provide.” He pointed to a taxi-sharing scheme as one solution.\(^{161}\)

We see earlier in this period, just as Dublin City Council and the other Dublin local authorities looked to be inching towards some kind of reasonable solution, with the appointment of economic consultants Oscar Faber, in November 1997, to examine the issue. In response, the taxi drivers succeeded in getting the Taoiseach, Bertie Ahern, to set up the Dublin Taxi Forum. The Taoiseach suggested that all of the disputed issues be “put on hold” until the forum reported in 6 months. It reported 12 months later in November 1998. When the Forum Report was published, Tommy Gorman of the NTDU described it as the “Good Friday Agreement” for the taxi industry and “that it’s the best thing that happened to our business because all the parties were willing to consult us and appreciate that we made important concessions”.\(^{162}\) The Forum recommended the issuance of 850 licences but no eventual deregulation.

The interim Oscar Faber Report was presented to the four Dublin local authorities during the Christmas season 1997. It recommended a further issuance of 200 wheelchair accessible taxis and a fare increase. These recommendations were voted through by 29

\(^{161}\) Irish Times 13 Nov. 1999
\(^{162}\) Ibid 5 Dec. 1998
votes to 6 in early January 1998. The final Oscar Faber report was debated in early June 1998 by the local authorities. It proposed that the market be gradually re-regulated over a 10-year period with 350 new licences being issued annually. The Dublin local authorities set up a committee to make recommendations on the report. It reported two months later in early November 1998, recommending that 830 licences be issued, 300 immediately.

However, the Dublin Taxi Forum and the deliberations of the Local Authorities committee were effectively overtaken by the intervention of Mary Harney. In early January 1999, she publicly promised that it would be the last Christmas season of taxi chaos. Eleven months later, in late November 1999, Harney’s colleague and Minister of State for the Environment Robert Molloy announced proposals to increase the taxi fleet by 3,100 including 1,300 wheelchair accessible taxis. This included allocating 2,600 of the extra 3,100 new licences to existing taxi plate holders. The grant of the majority of the licences to the existing taxi licence owners was designed to compensate them for any loss in value of their existing licences. The template for the proposed legislation was the report produced by Fingleton, Evans and Hogan. The drivers responded by going on strike and blockading Dublin airport. They didn’t stay out on strike due to Christmas being their busiest period. The regulations came into force on 13 January 2000

A group of hackney drivers sought a judicial review of the new regulations in early February challenging the successive Ministers’ power to restrict the number of licences and the plan to favour existing taxi licence holders in allocating the new licences. This effectively stalled the plan until the High Court ruled in October 2000. It ruled that the Minister’s scheme was illegal. The NTDU following a meeting on 12 November 2000

163 Ibid 6 Jan. 1998
164 Irish Times 6 Nov. 1998
165 Sunday Business Post 4 Jan. 1999
166 Dáil Éireann Debate Vol. 511 No. 6 31 Nov. 1999
167 Interview John Weafer
169 Irish Times 8 Feb. 2000

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sought to appeal the ruling to the Supreme Court. The government considered this course of action also but on advice of the Attorney General, Mr. Michael McDowell, that they would in all likelihood fail, did not proceed. The Minister of State Bobby Molly brought in new regulations on Tuesday 21 November 2000 that completely removed any numerical restriction on licences.

In response the taxi-drivers immediately suspended their taxi-sharing scheme for the Christmas period and blockaded the streets of towns and cities, Dublin airport and the national parliament the following day. This caused major traffic chaos. Aer Rianta, the airport authority, obtained a court injunction as a result of the disruption caused by taxi drivers at Dublin Airport. They advised travellers to allow an extra two hours to reach the airport. An estimated 1,500 taxi-drivers protested. Some 200 cars including 80, which travelled from Limerick, were used to block roads around the airport.

In the city centre, the taxi drivers abandoned taxis and blockaded the Houses of the Oireachtas and other streets in the city. The following day the drivers called off their blockade. 79% of taxi-drivers voted at a meeting to make the strike official and to continue it until Tuesday. After the meeting about 1,000 taxi-drivers marched from Liberty Hall to Dáil Éireann. Gardaí ensured that traffic could freely move at all times and the march passed of without incident. A further meeting was held on the following Sunday. Vincent Kearns warned that “This will go on like the miners’ strike”. Kearns and Ussher further said protests would be orderly and there would be no further blockades of traffic. However, Ussher added “having said that, we didn’t organise the original blockade, and I don’t know if we’ll be able to control the mens’ anger if the

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*174* Irish Times 23 Nov. 2000
*175* Ibid
results are negative when we come out of the meeting with Molloy”. A meeting was arranged with the Minister for the following Tuesday 28 November 2000.

Prior to the meeting with the Minister, 3,000 marchers set off from Parnell Square, led by an effigy of Mary Harney and “a battered old banger symbolizing the future state of taxis under deregulation.” Officially, the protest was led by the wives of taxi drivers but as the Irish Times pointed out, it was hard to see who was in control. “It was badly organized and badly conducted.” The leaders of the taxi associations were absent - preparing for their meeting with Mr. Molloy. Scuffles broke out at a Garda barrier at Nassau Street and Kildare Street. One taxi driver was heard to yell “Bring the women and children up the front” as he pushed against a Garda barrier. The women and children however were already being “crushed, trampled and terrorized as they became the meat in the sandwich between the Gardaí and taxi-drivers.” The Gardaí retreated from the barrier in order to prevent serious injury. “The marchers congratulated themselves on having broken the siege, but onlookers were reminded yet again of the undercurrent of violence in the campaign.” The scenes were described as a “disgrace” by a Government spokesperson.

The meeting itself lasted for 5 hours. The government stood firm on taxi deregulation however they agreed to set up a committee to discuss the consequences of the new regulations. It also emerged at this time that a threat had been made on the life of Mr. Molloy. This was taken seriously enough in order to warrant Gardaí protection for two weeks.

Tommy Gorman of the NTDU, on the same day, also applied to the High Court, to challenge the decision to deregulate the industry. The NTDU sought declarations that the recent regulations were outside the power of the Minister and that the government had interfered in the judicial powers of the courts by regulating while the recent rulings were

178 Irish Times 27 Nov. 2000
179 Ibid 29 Nov. 2000
180 Ibid 29 Nov. 2000
under appeal. They also claimed that the new regulations also unlawfully interfered with their constitutional rights to property and that they were entitled to make representations to Mr. Molloy prior to his introduction of the regulations.\(^{181}\)

Mr. John Weafer, Principal Officer, Dept. of the Environment said in an affidavit that the taxi industry had opposed successive governments in their attempts to improve the taxi service and that the taxi-drivers’ unions believed the economic interests of drivers should dictate the Minister’s regulatory power whereas the Minister believed that the interests of the public as a whole and the provision of a proper service should be his primary consideration.\(^{182}\)

The High Court on 23 March 2001 upheld the decision of the Government to deregulate the market. Mr. Justice Carney remarked that 2,000 new taxis in Dublin had not reduced the queues and rejected the claims that new regulations should have contained a compensation scheme. He said drivers were mistaken if they believed there was an automatic right to compensation in all circumstances. The problem of the shortage of taxis in Dublin was finally solved.\(^{183}\)

**Degree to which Groups’ Preferences are reflected in Outcomes and their Statements on the Outcomes**

During this period the drivers influence collapses. The period starts with the driver’s using their influence with the new Taoiseach to set up the Dublin Taxi Forum in November 1997. The Taoiseach despite overwhelming evidence of the need for extra licences states that all of the disputed issues should be “put on hold” until the forum reported.\(^{184}\) This is a pyrrhic victory for the drivers.

\(^{181}\) Irish Times 29 Nov. 2000

\(^{182}\) Irish Times 21 Dec. 2000

\(^{183}\) Irish Times 24 Mar. 2001

\(^{184}\) Irish Times 7 Nov. 1997
When Dublin City Council votes through the interim recommendations of the Oscar Faber report in early January 1998, Cllr. Ivor Callely TD led the opposition by accusing supporters of the recommendations of rushing the measures through. This was echoed John Ussher who said “I’m very upset and a little bit shocked, not only at the decision, but at the way it’s been made”. He further said that the fare increases were “not the increases we applied for”. At the meeting, several Councillors criticized the Taoiseach for establishing the Dublin Taxi Forum. Eric Byrne said it was an attempt to “undermine what is a local authority issue” and that Fianna Fáil members had been given the message that “Bertie would be looking after the taxi-men.” John Fitzgerald, the Dublin City Manager said “An improvement in the taxi service was drastically needed in this city.”

At this stage licences were trading at £80,000.

When the final Oscar Faber report was published in early June, it proposed that the market be gradually re-regulated over a 10 year period with 350 new licences being issued annually, the reaction from the taxi associations was again according to the long held position “We’re absolutely appalled by it. It’s totally off the wall.” said Vincent Kearns of the NTDU. “We’re all horrified and mystified”, said Tommy Gorman of the NTDU.

The Dublin Taxi Forum reported in early September 1998. It concluded that the number of plates should by increased by 850 over a four year period to the end of 2002. This report also recommended a centralized “lead authority” to regulate the taxi market. The taxi drivers had in mind something similar to the defunct Taxi Services Council that had been set up in 1978. As noted above the taxi drivers welcomed the recommendations of the Forum’s report.

Two months later in early November 1998 the Local Authority Taxi Committee that had been set up to review the Oscar Faber report, also issued its findings. It recommended

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185 Ibid 6 Jan. 1998
186 Ibid
187 Irish Times 5 Jun. 1998
that 830 licences should be issued, 300 immediately. They further recommended that no limit should be put on hackney licences. The Irish Times in an editorial described these recommendations as "Another patch sewn on the ragged fabric of Dublin’s transport infrastructure". They further stated that the recommendations “fall well short of a solution to Dublin’s chronic taxi shortage”.  

When the Tánaiste and Progressive Democrat leader Mary Harney intervened in the issue in the aftermath of another horrendous Christmas for taxi users, her views were severely criticized by the Taoiseach’s brother, Noel Ahern who said “I realize its Christmas and in the absence of hard news, we must listen to some party leaders sounding off with their brain wave, but I must record my shock and horror at some of the headline-seeking comments of the Tánaiste”. The Irish Times in an editorial agreed with Ms. Harney, it said “the current situation is nothing less than a public scandal in the sense that the common good has been undermined by powerful vested interests.”

A letter from a guesthouse owner in Dun Laoghaire in response to the editorial shows how far off the mark Ahern was with his comments and gives an indication of where his sympathies lay. It stated, “I am constantly embarrassed by the lack of an adequate taxi service in Dublin. It is not unusual for guests to have to wait two hours for a taxi to the city on a Saturday night, while getting home is a worse nightmare. Recently three English guests joined a queue at a taxi rank in the city at 3am. They got a taxi to Dun Laoghaire at 6am.”

An interesting insight is given into the influence that the taxi drivers had over Fianna Fáil and particularly Bertie Ahern. In the summer months of 1999, the two coalition parties held a review of the Programme for Government. According to a PD source, the FF team led by Dermot Ahern and Noel Dempsey were happy to advance with PD driven policies

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188 Ibid 3 & 6 Nov. 1998
189 Ibid 4 Jan. 1999
190 Ibid 5 Jan 1999
191 Irish Times 13 Jan 1999
of privatization and taxation but when it came to taxis, they simply stayed silent. When the review was finalized it was left to the Taoiseach and Tánaiste to resolve. The Tánaiste persuaded the Taoiseach that something had to be done and Mr. Molloy was told to proceed with measures that would reflect PD policy but also go some way to appease the Fianna Fail taxi lobby supporters.\textsuperscript{192}

An Irish Times editorial in mid November 1999 reflected the mood and view of the time

The political system appears unable or unwilling to respond to the crisis. One of the great popular mysteries of Irish life is why this Government, or at least its majority party, has allowed its taxi policy to be dictated by the needs of a small vested interest group rather than those of the common good. The public of the capital city, one of the most dynamic in the EU, is crying out for a decent and efficient taxi-service to match its new-found business and prosperity. Instead, it endures a situation where visiting businessmen can scarcely find a taxi to ferry them to and from the airport and where the locals must routinely plan a night out without contemplating an option other EU citizens take for granted – a taxi to bring them home.\textsuperscript{193}

At letter from as reader of the Irish Times on the same day, reflected the reality for a citizen of Dublin

...On Saturday night last, despite repeated attempts to hail a taxi, I had to walk from Temple Bar to the Navan Road before I succeeded in getting one to take me to Blanchardstown. On my walk, I was passed by countless taxis travelling in both directions, many of them without passengers. Why doesn't the Government discharge its duty to the citizens of Dublin by deregulating the taxi industry...It all boils down to a simple equation: vested interests versus the public good. If the political will existed to confront these vested interests, deregulation of the taxi industry would result in a significant improvement in the quality of life for Dubliners. The current situation is an indictment of the lack of political will among our elected representatives. No wonder people are cynical about politicians.\textsuperscript{194}

\textsuperscript{192} Ibid 4 Dec 1999
\textsuperscript{193} Ibid 13 November 1999
\textsuperscript{194} Irish Times 13 Nov 1999
When Bobby Molly announced his proposals in November 1999, to increase the taxi fleet by 3,100, including allocating 2,600 of those to existing drivers; the taxi drivers were getting a good deal in the circumstances. A situation that could not continue was being resolved and they were receiving compensation in the form of extra licences. The taxi drivers displayed a lack of political judgment in their reaction. According to union leaders, taxi drivers were “furious” and “in a state of shock” and as we saw above they immediately went on strike.

The Labour party spokesperson on public enterprise said the powerful stranglehold, which the taxi lobby had on Fianna Fail beggared belief. “There is a chronic lack of taxis in Dublin city. I want to compliment the Minister on tackling that lobby”. There was significant opposition by several Fianna Fáil backbenchers to the proposal.195

An editorial in the Irish Times in early December stated

The Government’s plan to double the number of taxis operating in Dublin by next May deserves no more than a qualified welcome. It is a positive if belated, development...Given the seriousness of the problem one might have thought that the discussion between the coalition partners would be dominated by the very pressing needs of the public. Instead, it appears that there was significant opposition from several Fianna Fáil backbenchers in Dublin to the issuing of new licences and stern opposition to the PD demand for deregulation....At this stage, the public is entitled to ask: why does the government allow a small if very vocal, lobby to dominate the agenda when a sustained effort to respond to the public’s concerns would yield substantial economic – and perhaps, electoral benefits196

Mr. Ivan Yates TD, in the Dáil on 30 December 1999 summed up the situation for the consumer over the Christmas period

Currently, on a daily basis, I receive complaints that people cannot even book a taxi from 4pm to 7pm in Dublin. The dire queue situation has

195 Dáil Éireann Debate Vol. 511 No. 6 30 Nov. 1999
196 Irish Times 2 Dec 1999
sharply worsened... This will be the third Christmas where the government has failed to tackle the vested interests.  

However, after the meeting with Molloy in early January, the President of the ITDF, John Usher displayed no understanding of the situation on the part of the taxi drivers except “The feedback we are getting at the moment is that the men are very militant”.  

The judicial review of the regulations sought by a group of hackney drivers effectively stalled the implementation of the new regulations.  

When the High Court ruled in October 2000 that the Minister was acting outside his power, it left the Government in a state of uncertainty. The Taoiseach Mr. Bertie Ahern described the ruling as “bad news for the public”. He said, “It’s a pity this has happened. I think we could have achieved a situation where we would have doubled the number of taxis on the streets of Dublin... That has now been rejected and the judgment will now have to be examined over the next couple of weeks”.  

The new regulations were leaked to the Irish Times. Neither the Minister for the Environment Noel Dempsey nor the Secretary General of the Department knew about the new regulations prior to their announcement in the newspaper. The Irish Times the following day stated

“For over a year the PDs had been pushing for the deregulation of the taxi market. However, a group of Fianna Fáil TDs, largely from the Northside of Dublin, has held sway over policy on the market. Their voices, and those of the taxi drivers, appear to have been heard loud and clear by the Taoiseach. The power of this particular group over Mr. Ahern has baffled observers”.

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197 Dáil Éireann Debate Vol. 511 No. 6 30 Nov. 1999
198 Irish Times 6 Jan 2000
199 Ibid 8 Feb 2000
200 High Court Judicial Review Record No. 38 JR/2000
201 Irish Times 14 Oct 2000
202 Irish Times 17 Nov 2000
203 Interview John Weafer
204 Irish Times 18 Nov 2000
After the regulation came into force Mr. Molloy stated:

I do hope that what we have done will now once and for all solve the chronic taxi service problems in Dublin. As people apply for licences the industry will grow and the service to the public will become reliable and there will be taxi when they are required...In that judgment, the High Court made it clear that limitation of taxi licences in the interests of existing licence-holders cannot be contemplated.

Emmet Stagg the Labour spokesperson condemned the Fianna Fáil, taxi driver relationship “one of the most sordid in recent years”. Tommy Gorman of the NTDU “we’re still getting over the initial shock. It’s hard to believe that our business will be demolished...our main problem is to contain the drivers. They have been very angry over the past week and we don’t know what’s going to happen.” John Ussher of the ITDF “We’ve been trying to cool the situation since deregulation was suggested, so I think there will be a huge reaction and I think some form of action will be taken”. The drivers in response blockaded Dublin, the airport and other towns.

Union leaders warned of an escalation of the protest on that evening and said that protesters would stay in their positions until they saw progress. “I’ve never seen the men so angry. Things could get very nasty” said Ussher of the ITDF. The NTDU said they expected the size of the protest to double if the decision was taken to make the action official. Vincent Kearns said the action would be made official if the Government did not take urgent action and that “they will stay until Christmas if it takes that long”.

With the blockade going on outside, Ivor Callely FF said, in the Dáil, that Mr. Molloy should meet taxi industry representatives and expressed disappointment that the government introduced “this blunt instrument”. Mr. Martin Brady also FF said he

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205 S.I. No. 367/2000 - Road Traffic (Public Service Vehicles) (Amendment) (No. 3) Regulations, 2000
206 Irish Times 22 Nov 2000
207 Dáil Éireann Debate Vol. 526 No. 3 21 Nov, 2000
208 Irish Times 22 Nov 2000
209 Ibid
210 Ibid
believed that taxi drivers were being treated "very shabbily". The Labour party leader asked the Tánaiste if she agreed "the taxi-men have been led up the hill by the Taoiseach in his capacity as Duke of York, acting in response to those who are lobbying for them from the backbenches such as Deputies Ivor Callely and Noel Ahern." The Tánaiste that evening firmly ruled out a Government U-turn on the deregulation of the industry. "The decision will be implemented" she said "if the blockade is called off, the Minister of State, Deputy Molloy, will be happy to have discussions but not negotiations."

The Minister and the taxi drivers’ representatives met for 5 hours on Tuesday 28 November. The government stood firm on taxi deregulation however they agreed to set up a committee to discuss the consequences of the new regulations. A joint submission from the ITDF and NTDU accepted a need for an increase in licences but also proposed a cap on licences and that a regulatory body be set up which could consult with local strategic policy committees that would “cater for local knowledge and social inclusion requirements.” It further said that their industry needed to be considered as part of an overall transport policy. In a joint statement issued after the meeting both sides accepted the importance of “the process of dialogue.” On the same day as meeting the Minister, the taxi drivers’ took a case to the High Court. As we saw above, this case was thrown out in March 2001 and the taxi problem in Dublin was solved. Molly stated the Government was “very satisfied that the courts have vindicated the action we took.”

Period 5 Analysis

We see that from a situation in the 1960s where the taxi drivers found that Ministers or officials would “long finger” their negotiations, the drivers now had access to and influence with the Taoiseach. However, the drivers over-played their hand and their

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211 Dáil Éireann Debate Vol. 526 No. 4 22 Nov. 2000
212 Ibid
213 Ibid 28 Nov. 2000
214 Ibid 29 Nov. 2000
215 Ibid 24 Mar 2001
influence ultimately collapsed in this period. The intervention of the Taoiseach attracted the attention of his coalition party to the issue and moved them to tackle the issue.

Despite the taxi drivers grudgingly accepting that a problem existed, there was no movement on their long held view that none or at a stretch, very few, new licences should be issued. The fact that the first policy proposed by Molloy was designed to a considerable degree to look after their interests was lost on them. The public and the media, at this stage, were baffled, perplexed and angry at how they could be held to ransom for so long.

After the regulations were appealed to the High Court, the taxi drivers and their supporters in Fianna Fáil relentlessly tried to regain their stranglehold on the issue. So much so, that when the High Court threw out the regulations, the new regulations were leaked to the press without being discussed and were quickly put in place. The PDs were afraid that Fianna Fáil and the taxi drivers would come up with a further ruse to delay reform.

The taxi drivers during this period continued to use strikes and blockades to further their cause. They also sought and were granted meetings with ministers, officials and TDs. Ivor Callely sought to have an implementation body set up but this was firmly rejected by the Minister. A threat on the life of the Minister was received and was taken seriously enough that his personal security was increased.217 Dublin City Council closed their office dealing with the issue due intimidation and a business selling taxi meters was threatened not to sell to any new licensee.

We see from the policy outcomes that the taxi drivers’ influence collapses in this period.

5.3.2 Case Study Summary of Influence

217 Irish Times 29 Nov 2000
At the start of the taxi drivers' campaign, in the mid-1960's they are split and disorganized. They simply seek meetings with politicians and officials, and complain to the press. As the decade moves on, the drivers end their split and discover that when they strike and blockade the streets of the capital, the politicians and bureaucrats that "long-fingered" their requests, suddenly find the wherewithal to move somewhat on their requests. In this early period the drivers succeed in obtaining some of their interim objectives. However, they do not obtain their primary objective of a cap on licences.

When a new government is elected in 1973, they increase the pressure by striking regularly. The Minister meets them more regularly and they obtain further interim goals. The drivers show greater tactical awareness by threatening to strike at key times and by obtaining promises before the general election. They also prepare detailed submissions that they present to government and for the first time they appeal to the courts. The drivers achieve their major goal in 1978-79 when the government sets up the Taxi Services Council and the courts agree that the minister can curtail the issuance of licences. During the recessionary period of the 1980's, when there is little capacity constraint, the drivers build relationships with local authority councillors.

When the recovery of the economy tests the capacity of the taxi system, the drivers' after a slow start show themselves to be a force to be reckoned with. The drivers strike and blockade when their demands are not met; they also use, to full effect, the political relationships built during the 1980's. However, the drivers' having shown good strategic foresight in the 1970's displayed in the 1990's a complete inability to read the political situation.

In assessing influence as "control over outcomes", we see that the taxi drivers increase their influence over the 1970's through obtaining interim outcomes. They finally achieve their stated goal in 1978-79 and consolidate and maintain this position in the quiet decade of the 1980's. For the complete decade of the 1990's, under pressure they maintain their
desired outcomes with only minor concessions. Their influence collapses in 2000 with the complete liberalization of the licensing regime.

5.4 Policy Image and Venue Change

In this section we examine the policy image and venue change variables. We deal with two specific research questions. Firstly, "does variation in policy image explain change in policy outcome over time" and secondly, "do venue changes explain variation in policy outcomes over time".

5.4.1.1 Policy Image

The policy image variable is examined over a period of 45 years. This involved extracting, collating, reading, examining and rating 748 newspaper articles and 1,593 contributions of speakers to Oireachtas debates. In order to measure the salience of the issue, I graph below, the frequency per annum that the taxi licensing issue appeared in the Irish Times newspaper; and the frequency with which members of the Oireachtas debate the issue over the period. We then examine the variation of policy image of the issue, where the data is assessed as being either pro, anti or neutral to the interest groups position.
Figure 5.1 Irish Times: No of Articles per annum relating to Taxi Licensing

Figure 1 above shows the number of articles published in the Irish Times that discusses the taxi licencing issue. As you can see, the issue first began to attract a small level of attention in the late 1960’s when the taxi drivers started agitating for a cap on licences and subsequently held their first strike. The salience of the issue declined in the early 70’s but steadily rose again until the taxi drivers were successful in stopping the issuance of licences in the late 1970’s. The issue remained largely off the agenda throughout the 1980’s but began to attract attention again in the early 1990’s due to the growth in the economy highlighting the relative shortage of taxis due to the licence cap. The policy reforms brought about in the wake of the inter-departmental report in 1992 and “agenda crowding” due to unexpected changes in government and developments in the Northern Ireland peace process during the key Christmas “focusing event” periods pushed the issue off the agenda in 1992, 1993 and 1994. However, the main cause of the issue remained: the licence cap, and attention “took off” during the rest of the decade, peaking in 2000
and dropping off steadily in the first years of the new millennium, after the government removed the cap on licences.

**Figure 5.2 Oireachtas No of Discussants per annum relating to Taxi Licensing**

Figure 2 shows the number of discussants on the taxi issue in the Oireachtas. As one would expect, it mirrors to a substantial degree the attention that the issue attracts in the Irish Times and this can be seen in the composite diagram in Figure 3 below. Two small differences are noticeable: The Oireachtas paid greater attention to the taxi issue when it first appeared on the agenda in the early 1990's. This was probably due to the fact that the issue had arisen at local authority level and many local authority councillors at that time were also TDs. Secondly, the Oireachtas returns focus to the issue after deregulation while the newspaper doesn’t: this was due to legislation establishing a national taxi regulator and efforts to design a scheme to financially aid hard-pressed taxi drivers who owed large sums of money from the purchase of their licence.
Having established that the two sources of data are reliable and that the issue arises on the agenda to varying degrees over the time period we now move to assess whether the policy image had any impact on policy change.
Figures 4 & 5 (above and below) display the newspaper articles and Oireachtas discussants assessed for policy image in favour of or against the taxi drivers’ position. We see that as the issue moves onto the agenda in the early 1990’s, there is an initial rise in feeling against the drivers. This diminishes following some policy changes brought about in response to the Inter-Departmental Report, which was published in July 1992.
The report had envisaged a gradual increase in the number of licences over time. However, this did not happen. Following, the 50 licences issued after the publication of the report, no further licences were issued until after May 1996, when the taxi drivers were successful in having a motion to increase the number of licences by 200 reduced to 100. We see then a striking rise in sentiment against the taxi drivers' position in both arenas. As predicted by PET, the public rise in sentiment against the drivers is met by with “countervailing actions, in a thermostatic-type process” Baumgartner and Jones (2012; 3) whereby the interest groups supporters mobilize into action to fend off the attack. This is seen by the rise in “pro” taxi driver data points from 1998 in both arenas.
Figure 6 and 7 exhibit the net policy image of the taxi issue in the newspaper and Oireachtas respectively. It is obtained by subtracting the negatively toned data points from the positively toned data points. We see that from 1993 onwards in the newspaper (Figure 6 above) and 1996 onwards in the Oireachtas, (Figure 7 below) the net tone on the issue becomes strongly negative. It plummets and remains strongly negative between the years 1996-2001. It is during this period of negative policy image that Mary Harney (Early January 1999) states that she will solve the taxi problem; that Bobby Molloy introduces the first set of regulations that favour the taxi drivers’ (Jan. 2000), that are subsequently ruled illegal by the High Court (Oct 2000) and consequently result in the second set of regulations that completely liberalize the taxi licensing regime (Nov. 2000).
We see from the above evidence, that as the policy image turns negative in the early 1990's some incremental policy change occurs in that a small number of licences are issued following both the interim and final inter-departmental reports in 1991 and 1992. We see then that as the decade proceeds and the policy image becomes increasingly negative further incremental changes in policy occurs, with further small numbers of taxi licences being issued. A policy punctuation occurs in November 2000 with the complete removal of numerical restrictions on taxi licences. Having examined the policy image variable, we now move on to examine venue change, subsequently, we will analyze the outcomes of the interconnected research questions.

5.4.1.2 Venue Change

From the discussion of influence above, we can see that policy in relation to taxi licence issuance over the course of the case study is made in three different venues: the executive
venue, the local authority venue, and the judicial venue. From Table 5.1 below we see beginning from the initial Road Traffic Act in 1961 setting down the regulation of the issue, there were 13 venue changes during the period of the case study. Policy moved to the executive venue on 3 occasions; to the local authority venue on 2 occasions and the judicial venue on 8 occasions.

<table>
<thead>
<tr>
<th>No.</th>
<th>Venue</th>
<th>Date Commenced</th>
<th>Date Repealed</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Executive</td>
<td>Jul-61</td>
<td>Nov-78</td>
<td>Road Traffic Act 1961 Section 82</td>
</tr>
<tr>
<td>1</td>
<td>Judicial</td>
<td>Sep-76</td>
<td></td>
<td>Morris v Minister for Local Government; High Court</td>
</tr>
<tr>
<td>2</td>
<td>Judicial</td>
<td>Jul-78</td>
<td></td>
<td>Kelly and Others v The Minister for the Environment; High Court</td>
</tr>
<tr>
<td>3</td>
<td>L. Authority</td>
<td>Nov-78</td>
<td>Oct-91</td>
<td>SI 292/1978</td>
</tr>
<tr>
<td>4</td>
<td>Judicial</td>
<td>Dec-78</td>
<td></td>
<td>Kelly v The Minister for the Environment; Supreme Court</td>
</tr>
<tr>
<td>5</td>
<td>Judicial</td>
<td>Sep-79</td>
<td></td>
<td>Cork Taxi Assoc v Garda Commissioner; High Court</td>
</tr>
<tr>
<td>6</td>
<td>Executive</td>
<td>Oct-91</td>
<td>Sep-95</td>
<td>SI 272/1991</td>
</tr>
<tr>
<td>7</td>
<td>Judicial</td>
<td>Jul-92</td>
<td></td>
<td>Hempenstall and Others v. The Minister for the Environment</td>
</tr>
<tr>
<td>8</td>
<td>L. Authority</td>
<td>Sep-95</td>
<td>Jan-00</td>
<td>SI 136/1995</td>
</tr>
<tr>
<td>9</td>
<td>Judicial</td>
<td>Jul-98</td>
<td></td>
<td>O'Dwyer and others v Minister for Environment</td>
</tr>
<tr>
<td>11</td>
<td>Judicial</td>
<td>Feb-00</td>
<td></td>
<td>Humphrey and Others v The Minister for the Environment</td>
</tr>
<tr>
<td>12</td>
<td>Executive</td>
<td>Nov-00</td>
<td></td>
<td>SI 367/2000</td>
</tr>
<tr>
<td>13</td>
<td>Judicial</td>
<td>Mar-01</td>
<td></td>
<td>Gorman, and Others v The Minister of State at the Dept. of the Environment</td>
</tr>
</tbody>
</table>

Table 5.1 Venue Change relating to Taxi Policy

During the period of the 1960's and 1970's, the executive venue had jurisdiction of the issue under Section 82 of the Road Traffic Act. The taxi drivers first brought about a venue change just before the licensing period in September 1976, when in the High Court, they were granted an injunction restraining the Government from issuing licences "to persons not showing that they possessed, maintained, and used the vehicle in compliance with the regulations".

The next venue change occurred following the Government's suspension of the licensing period, the following September 1977. A case was taken by taxi licence applicants, who wanted the High Court to declare, that the Minister was acting *ultra vires* his powers in suspending the licensing period. The Minister had stated many times previously that he did not have the power to fully suspend the issuance of licences. In June 1978, the High Court ruled that the Minister did in fact have that power. The decision was appealed to
the Supreme Court. The Supreme Court upheld the High Court decision in December 1978.

The executive venue, following a taxi strike and blockade in September 1978, set up a promised “Taxi Services Council”. In agreement with this council, the Minister made regulations,\(^{218}\) which gave the local authorities the jurisdiction to determine the number of new taxi licences to be issued each year. Under the control of the local authorities, a small number of licences were issued but an injunction obtained by a number of Cork taxi drivers in 1979 and the Supreme Court decision made the suspension of licence issuance easier and under the control of the local authorities, no further taxi licences were issued until 1991.

In October 1991, The Minister for the Environment made regulations\(^{219}\) following the interim recommendations of the Inter-Departmental Committee and took back control of licences in the Dublin Taximeter area from the council and immediately announced an application process for 100 new licences. The Minister also suspended the issuance of hackney licences.

In July 1992, following the publication of the final Inter-Departmental Report, the Minister announced 50 new licences and lifted the suspension on hackney licence issuance. 6 taxi drivers sought and were granted an injunction, restraining the Minister from lifting the restriction on hackney licences. They claimed that the Minister had given them assurances that he would only allow for 100 new hackney licences. The drivers were ultimately unsuccessful in their case and the injunction was lifted.

The next venue change occurred in late May 1995, when the Minister announced new regulations\(^{220}\) that returned the power to issue licences to Dublin City Council. They also suspended the issuance of hackney licences. The taxi drivers raised no objection to these


regulations. An unusual feature of these regulations was that they granted Dublin City Council the sole powers to govern the taxi market in the greater Dublin area even though this market extended over four administrative areas – Dublin City Council, Dun-Laoghaire Rathdown Council, South Dublin County Council and Fingal.

An example of how a threat of venue change can bring about policy change can be seen, when Dublin City Council capitulated to the taxi drivers and reduced the proposed new number of licences from 200 to 100 in May 1996. The three non-governing Dublin local authorities, in response to the capitulation, threatened to set up a second Dublin taxi meter area. This, and another Christmas of taxi chaos forced Dublin City Council to pass a motion in February 1997 to issue a further 200 wheelchair accessible taxis, increase the taximeter area and increase the fee for licence renewal. However, the failure to deal substantially with the issue inevitably led to further pressure for reform from the non-governing councils. In response to the drivers’ blockade of Dublin on the day of the Presidential election in autumn of 1997, Dublin City Council employed economic consultants Oscar Faber to examine the issue and a committee comprising members from the four local authorities was set up to examine the issue.

Following the blockade, a meeting with the new Taoiseach Bertie Ahern signaled the re-entry of the executive venue, when he announced the establishment of a parallel investigation in the form of the “Dublin Taxi Forum” which came under the auspices of the Department of Environment. These investigations effectively stall any major reform on the issue until after the reports are concluded in late 1998 (200 licences were issued in January 1998 following the interim Oscar Faber report).

Ahern’s intervention attracted the attention of Mary Harney who promised to deal with the issue. Following her colleague Bobby Molloy’s introduction of new regulations, in January 2000\(^\text{221}\), that were to increase the number of licences by 3,100 and effectively

gift a sizeable number of the new licences to existing licence holders, a group of hackney drivers sought a judicial review. The High Court issued its ruling in October of that year. The ruling stated that the Minister was acting *ultra vires* in specifically favouring the incumbent taxi drivers.

The executive venue was left to find a new solution to the taxi licence problem. The new regulations were in place by Tuesday 21 November 2000. They completely removed all numerical restrictions on the issuance of licences.

Again, the taxi drivers appealed to the High Court to seek a declaration that the regulations were unlawful. The High Court on 23 March 2001 upheld the decision of the Government to liberalize the taxi market.

### 5.4.2 Policy Image and Venue Change Analysis

We see from above and summarized in Figures 6, 7 & 9 that the taxi drivers campaign to introduce a licence cap during the 1960's and 1970's attracted little attention and in line with PET exhibited a generally neutral policy image. As this campaign came to a conclusion, the issue attracted a small amount of attention and several venue changes occurred. As we saw above, during this period of benign policy image and venue changes, the regulation changes predominantly favoured the taxi drivers and the drivers ultimately obtained their major policy goal of a licence cap in 1979.

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Table 5.2: Taxi Policy Venue, Policy Image & Policy Change Type

<table>
<thead>
<tr>
<th>Venue</th>
<th>Date Commenced</th>
<th>Changes Pro/Anti</th>
<th>Policy Image</th>
<th>Policy Change Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 Executive</td>
<td>Jul-61</td>
<td>Neutral</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Judicial</td>
<td>Sep-76</td>
<td>Pro</td>
<td>Neutral</td>
<td>Incremental</td>
</tr>
<tr>
<td>2 Judicial</td>
<td>Jul-78</td>
<td>Pro</td>
<td>Neutral</td>
<td>Incremental</td>
</tr>
<tr>
<td>3 Local Authority</td>
<td>Nov-78</td>
<td>Pro</td>
<td>Neutral</td>
<td>Incremental</td>
</tr>
<tr>
<td>4 Judicial</td>
<td>Dec-78</td>
<td>Pro</td>
<td>Neutral</td>
<td>Incremental</td>
</tr>
<tr>
<td>5 Judicial</td>
<td>Sep-79</td>
<td>Pro</td>
<td>Neutral</td>
<td>Incremental</td>
</tr>
<tr>
<td>6 Executive</td>
<td>Oct-91</td>
<td>Anti</td>
<td>Negative</td>
<td>Incremental</td>
</tr>
<tr>
<td>7 Judicial</td>
<td>Jul-92</td>
<td>Anti</td>
<td>Negative</td>
<td>Incremental</td>
</tr>
<tr>
<td>8 Local Authority</td>
<td>Sep-95</td>
<td>Pro</td>
<td>Neutral</td>
<td>Incremental</td>
</tr>
<tr>
<td>9 Judicial</td>
<td>Jul-98</td>
<td>Anti</td>
<td>Negative</td>
<td>Incremental</td>
</tr>
<tr>
<td>10 Executive</td>
<td>Nov-98</td>
<td>Anti</td>
<td>Negative</td>
<td>Incremental</td>
</tr>
<tr>
<td>11 Judicial</td>
<td>Feb-00</td>
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<td>Incremental</td>
</tr>
<tr>
<td>12 Executive</td>
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<td>13 Judicial</td>
<td>Mar-01</td>
<td>Anti</td>
<td>Negative</td>
<td>Incremental</td>
</tr>
</tbody>
</table>

Again from Figures 5.3, 5.6 5.7 & Table 5.2, we see that the recessionary decade of the 1980’s attracted little attention, a neutral policy image and no venue change. The policy image moved into negative territory in the early 1990’s, two venue changes occurred and minor policy modifications occur against the wishes of the interest group. The policy image from 1992-95 is mixed: a number of factors are at play here; the mild reforms of the interdepartmental report and the establishment of the Nitelink bus service may have eased the problem somewhat. Furthermore, key national events may have distracted the Oireachtas during the key Christmas pressure point. In any event, the executive venue returned the issue to the local authority venue and placed a cap on hackney licences. The taxi drivers do not protest at the change of venue or regulations. From 1995 onwards the policy image moves strongly into negative territory and a cluster of venue changes with a dramatic liberalization of the market occurring in November 2000.

Examining the dual related research questions “do changes in policy image explain variation in policy outcomes” and “do venue changes explain variation in policy outcomes”, we see that when the policy image remains relatively stable over the earlier
period of the case, the interest group is able to maintain relatively good control over the subsystem, and eventually achieve their policy goal. Any venue changes that occur during this period of low attention and public indifference to the issue generally results in policy moving in favour of the interest group. When the issue began to attract negative attention in the early 1990's a venue change occurs and subsequently, incremental policy changes against the taxi drivers wishes occurred, but as the policy image became more negative, the number of venue changes increased and consequently a policy punctuation occurred in November 2000. Negative policy image and venue change bring about policy change against the wishes of the interest group.

5.5 In Brief - Case Study Conclusions

The findings and analysis of both cases are discussed in Chapter 7, for the moment I briefly draw some conclusions. The length and detail of the case study above affords the reader a remarkable and fascinating view of policy making in the Irish political system. It allows us to trace policymaking from the decade the motorcar became a common sight on the streets of Dublin until the advent of a new millennium. We see from the activity of the taxi drivers that as well as competing in the taxi market, they also compete to design a favourable market structure. Over the course of the case study the taxi drivers develop their skills and tactics of influence until they succeed in obtaining the primary policy goal.

We also witness the dynamics of the institutional structures of the Irish political system in action. The failings of the policy slowly become obvious, first almost imperceptibly in the decade in the 1980's and then increasingly rapidly in the 1990's. The response of the political system to the issue is slow, with strong evidence of the taxi drivers driving the agenda

The taxi drivers' policy image declines precipitously over the course of the 1990's and venue changes occur relatively often. The taxi drivers have strong influence in the local
authority, executive venues. However, with the issue never far from the agenda, it is a precipitous decline in policy image, regular changes in venue, and a mixture of lack of influence in the judicial venue and a loss of influence in the executive venue that finally scuppers their control over policy.
Chapter 6

The Consultants' Contract

6.1 Introduction

In this chapter we analyze the evolution of policy in relation to the consultants' common contract: The chapter like the taxi case study, analyses the three specific research questions as set out in the literature review and is set out in the same manner as the taxi case study. However, it is important to note at this juncture that the subject of this case study is more complex than that of the previous study. The taxi case study involved the relatively clear-cut issue of a cap on taxi licences. In the present case the issue ultimately is simple too: It essentially revolves around the consultants working conditions. As we will see in the analysis of the influence variable, the key issue in the contract is the consultants' right to private practice, the extent of private practice allowable under the contract and the question of who bears the cost of that practice. This requires not only an analysis of their private practice rights but also an analysis of how these rights are managed within the hospital system. This involves an analysis of clinical independence and the management of consultant resources. Like the taxi case study, in order to render the analysis comprehensible, I divide the influence analysis of the case study into different periods. However, in this case, in each period of analysis, I examine the consultants private practice rights in conjunction with clinical independence and subsequently I then examine the consultant/management relationship.

6.2 Historical Background - Setting the Scene

The "common contract" since its inception has largely become the battleground upon which the government and the hospital consultants have fought for control of the Irish hospital system. The genesis of a unifying contract of employment for hospital
consultants, regardless of their specialty or hospital of employment came in "The Fitzgerald Report" on General Hospital Services (1968). In order to position the analysis, it is informative to briefly explain the unique set-up of the Irish hospital system and to describe the different associations that have represented the consultants over the years.

The Irish Hospital System

The Irish hospital system has three distinct types of hospitals: public, voluntary, and private. Some voluntary hospitals have essentially two separate hospitals in close proximity to one another: one public, one private. A relatively modern phenomenon is the purely private "for profit" hospital, with the first of these opening in the mid 1980's: the first and best known of these being the Blackrock Clinic. However, in relation to policy development, the most important hospitals are the voluntary and public hospitals. We examine each type briefly.

Voluntary Hospitals

The oldest hospitals in the country are the voluntary hospitals, which had their origins in the first half of the 18th century.223 These were established initially by charities and then later by religious orders who were "moved by the conditions of the sick poor."

The development of the Irish voluntary hospital was almost entirely confined to the city areas, particularly to Dublin. The movement depended largely for its support on the commercial and professional classes, an element not significantly represented in rural areas.225 The voluntary hospitals concentration in city areas naturally led them to be associated with the universities located nearby. Consequently the majority of university teaching hospitals in Ireland are also voluntary hospitals (two exception St. Finbarr's, Cork and The Regional Hospital, Galway).

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223 The Fitzgerald Report (1968; 9)
224 Ibid
225 Ibid
Many of the voluntary hospitals in the 1920's faced financing problems. The solution to the funding problem was particularly unusual in that a sweepstakes was organised to pay for hospital funding in both the voluntary and local authority (see below) hospitals.

By 1968, most of the voluntary hospitals were

...public hospitals but a few of them are private in character. In the former category the majority of the patients pay little or none of their expenses...Most of these hospitals now depend on public funds for all but a relatively small proportion of their income. With the exception of the private hospitals, they participate in the provision of services for those entitled to them under the Health Acts and are paid certain fixed capitation rates by the health authorities...The private voluntary hospitals do not participate fully in the provision of services for Health Act patients.226

Public Hospitals

The public hospitals generally "had their origins in workhouses built in the 19th century or in infirmaries attached to workhouses" O'Morain (2007; 38). They were funded by local authorities through the local rates system. Most counties had a "county hospital", with some of the main centres of population having a "regional hospital". The regional hospitals had a greater number of consultant staff and offered a broader range of services and specialties.227

Medical Representative Bodies

Traditionally, there was two major medical representative associations, The Irish Medical Association (IMA) and the Irish Medical Union (IMU). The IMA generally represented consultants in the voluntary hospitals, particularly in Dublin while the IMU generally represented consultants in the local authority hospitals. The IMA and the IMU amalgamated in April 1984 to form the Irish Medical Organisation (IMO). However, hospital consultants split from the IMO in 1989 under the leadership of Prof John

226 The Fitzgerald Report (1968; 9)
227 Ibid (1968; 16)
Fielding and Finbar Fitzpatrick to form the Irish Hospital Consultants Association (IHCA).

**Medical Consultants Pay and Conditions prior to the “Common Contract”**

Medical consultants were paid differently depending on their hospital of employment. Consultants who worked in the Local Authority Hospitals were salaried, permanent and pensionable state employees with limited and distinct rights to private practice, whereas, the consultants in the voluntary hospitals received no salary and made most of their income from private patients. Following the Health Act (1953), the health authorities paid a daily capitation rate for each public patient in a Voluntary Hospital. A proportion of the capitation rate was paid into a pool from which consultants drew an income.\(^{228}\)

**Voluntary Hospital Remuneration**

In the voluntary public hospitals, the Fitzgerald report states most of the consultants were unsalaried and were appointed

...on the traditional basis having a specified number of beds allocated to them...Public patients comprise about 90% of the population; therefore a remarkably large part of the time of most voluntary hospital consultants is spent in the treatment of patients in respect of whom relatively little payment ensues. Since the enactment of the Health Act, 1953, a method of remunerating consultants for the treatment of public patients is in operation whereby the daily capitation rate paid by health authorities for eligible patients includes a small sum which is allocated to a “pool” for distribution among consultants concerned. In addition, consultants attached to the voluntary hospitals are paid fees on a sessional basis by the health authorities for providing out-patient service for eligible patients. Consultants on the staffs of teaching hospitals may receive a portion of their remuneration from the medical schools concerned. This is small except for the rare full-time clinical teachers.\(^{229}\)

\(^{228}\) Wren (2003; 60)

\(^{229}\) The Fitzgerald Report (1968; 15-16)
With regard to private work in voluntary hospitals, the report states

where private patients are concerned, the consultants are free to arrange fees and are paid directly by the patients, but such patients are rarely (and usually only for special reasons) accommodated in the wards of public voluntary hospitals. The great majority of private patients attend the private voluntary hospitals, or the private wards of public voluntary hospital, if such exists. Consultants rarely have an allocation of private beds; these beds are applied for by a consultant when he has a private patient to treat and are granted by the owners of the hospital as occasion demands.\(^\text{230}\)

**Public Hospital Remuneration**

With regard to the remuneration of consultants in public hospitals the report states that

The system of remuneration for local authority consultants is rather complex. Some receive a relatively small salary for part-time posts and derive most of their earning from private practice. Others, whose private practice is limited by the terms of their appointment, receive a higher salary for a virtually wholetime service. There is a third group, whose incomes derive solely from their wholetime local authority employment, who have no private practice.\(^\text{231}\)

The "limited" private practice element of the local authority consultant consisted of the right of the certain types of consultants to use four beds for his private practice and for other types of consultants to pay the hospital an increasing amount of their fees as their private practice earnings increased. (See below for details)

**6.3.1 Influence - Process Tracing and Attributed Influence**

The total period of analysis involves assessing the influence of various actors over the course of a 40-year period. In order to render this long period amenable to analysis, I have divided it into 6 periods: Period 1 covers the timespan from the publication of the Fitzgerald Report in 1967 which first mooted the concept of a unified "common contract"

\(^{230}\) Ibid (1968; 14)
\(^{231}\) Ibid (1968; 16)
until the collapse of the first negotiations that attempted to bring about its fruition in 1974. The second period lasts up until the first common contract is offered to the consultants in 1981. It primarily analyses the restarting of the negotiations following Fianna Fáil returning to office in 1977. The next timespan covers the implementation of the new contract from 1981 and the return to government of a Fine Gael/Labour coalition. Period 4 covers the return of Fianna Fáil, firstly as a minority government in 1987 and subsequently in coalition with the Progressive Democrats from 1989; the further emergence of problems with the contract and ultimately its renegotiation in 1991. Period 5 lasts up until the contract was again renegotiated in 1997. This period attracted the least amount of attention. The sixth and final period moves from 1997 until 2008; in this time the issue attracted significantly more attention than it ever had previously. The negotiations drag out for a protracted period and finally result in a new contract in August 2008.

In the pages that follow I analyze each period, like the taxi case study, starting with a brief “timeline” that sets out the major events in each period. Following the timeline, I set out the each actor’s preferences, their attempts to influence policy and their interaction with decision makers, in relation to the private practice rights, clinical independence and the consultant/management relationship. I then set out how the policy outcomes align with preferences.

6.3.1.1 Period 1 – 1967 - 1974

Timeline

The idea of a unifying “common contract” for hospital consultants, regardless of their specialty or hospital of employment had its genesis in the report of the Consultative Council on General Hospital Services (The Fitzgerald Report, 1968). The Minister for Health, recognising the political sensitivity of rural hospital location had appointed the

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232 Wren (2003; 60)
Fitzgerald Group” to comprise entirely of “expert” hospital consultants. He hoped the recommendations would be seen as purely based on medical reasoning and without the taint of regional politics. Apart from recommendations on hospitals, the consultants, outlined in detail, their remuneration and employment conditions, and also their view of its inadequacy.

The government accepted the general principles of the report but due to regional political considerations it did not agree with the application of several of the specific recommendations of the report. It proved politically impracticable to implement the recommendations to rationalize hospitals in rural areas. However the recommendations of the report on consultant employment conditions: the establishment of a consultant recruitment board and a common contract of employment were generally accepted by everyone.

The Health Act 1970 reflected the 1966 Government White paper on Health and it implemented some of the recommendations of the Fitzgerald Report. It set up a system of “Health Boards”, which facilitated medical profession input into the regional management of the hospital system. It established a body, to take control of the consultant recruitment process called, Comhairle na n-Ospideal and further, Secton 55 of the Act, extended private practice rights to all consultants in public hospitals.

A Working Party to make recommendations on a common contract was set up by the Minister for Health, Erskine Childers in December 1972. It collapsed, in September 1973, after the new Minister for Health and Labour party leader Brendan Corish announced a new health scheme that would provide free hospitalisation and free

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233 Barrington (1987; 266-68)  
234 Fitzgerald Report (1968; 16)  
235 Hensey (1988; 125)  
236 Memo Condon to Desmond (1983) p.2 Barry Desmond’s private papers  
237 Wren (2003; 48-50)  
238 Irish Times 22 Sep 1973
consultant services for all.\textsuperscript{239} Corish could not reach agreement with the consultants and he tried to impose an interim scheme.\textsuperscript{240} The consultants threatened to go on strike and Corish was forced to withdraw the scheme days before it was supposed to begin.\textsuperscript{241}

\textbf{The Actors' Preferences; Their Attempts to Influence Policy and Their Interaction with Decision-Makers}

\textbf{Private Practice and Clinical Independence}

An Irish hospital consultant's right to private practice originated in the voluntary hospitals and consequently preceded state involvement in healthcare and has remained a significant, if controversial, part of the Irish health system to the present day.\textsuperscript{242} Probably the single most defining issue in Irish health politics in the last century occurred in 1948 and centered on the medical professions right to private practice. "The Mother and Child" Scheme proposed to give free healthcare to mothers and children under the age of sixteen in order to tackle Ireland's high and disturbing levels of infant and maternal mortality. A combination of the Catholic Church and the medical profession forced the withdrawal of the Scheme in 1948: The Church because it feared "socialist medicine"; the medical profession because it feared the loss of private income.\textsuperscript{243} Barrington (2003; 106) states

\ldots the attempt by government to create a national health service on the United Kingdom model in the late 1940's met the combined resistance of the medical profession and the Catholic Church, crystallising in opposition to the proposal of Minister Noel Browne to provide free medical care to all mothers and to children up to the age of sixteen years. The minister resigned, the government fell and the affair provoked a major crisis of confidence in the republican ideals of the state.

Barrington (2003; 107) further states

\begin{footnotes}
\item[239] Ibid 22 Sep. 1973
\item[240] Ibid 15 Feb 1974
\item[241] Dáil Éireann Debate Vol. 271 No. 7, 27 Mar 1974 Brendan Corish
\item[242] Fitzgerald Report (1968; 15-16)
\item[243] Wren (2004; 32-39)
\end{footnotes}
Another important outcome of the upheavals of the late 1940's and early 1950's was a strong demand by the medical profession for clinical independence interpreted as the absence of supervision in clinical matters. This demand was conceded and lies at the heart of many of the difficulties experienced with clinical governance.

Fianna Fáil, the dominant political party in the state for most of its existence, and self-proclaimed “pragmatic party”, apart from an earlier period of radicalism, has consistently been in favour of private practice. Donogh O’Malley, as Minister for Health, had in 1966 stated “the vast majority of people were against socialised medicine. Those who could pay should pay”. A 1966, Department of Health White Paper published while he was Minister stated “the Government did not accept the proposition that the State had a duty to provide unconditionally all...health services free of cost for everyone”.

Following the recommendations in the Fitzgerald Report, a Working Party was set up in December 1972 to design a common contract. A Fine Gael/Labour coalition had come into power in March 1973. The Working Party continued its work despite the change of Government. The new Government decided, in August that year, to introduce free-hospital and consultant care for the entire population. The IMA and IMU had by the time the Government announced the scheme submitted a joint document to the Working Party for discussion which they hoped would form the basis of the common contract. It had decided to set up a sub-committee to negotiate the finer details. However, on announcement of the Government scheme the consultants withdrew the draft contract and stated that they did not consider the current working party to be the appropriate forum for negotiations on the proposed scheme. The consultants were wary of the scheme. Fear for their private income and the erosion of their clinical independence were the stated major

244 Interview Dr. Michael Woods
245 Wren (2004; 30-33)
246 Wren (2004; 45)
247 The Health Services and their Further Development, Stationary Office, Dublin (Jan 1966 p. 16)
248 Ibid 22 Sep. 1973
249 Ibid
250 Ibid
concerns. The Irish Times under the headline “Corish Scheme wrecks talks on hospital consultants terms” states

The Irish Medical Association and the Medical Union have forced the adjournment *sine die* of the joint working party which, with the Department, Health Board, and doctors’ representatives, was trying to devise a common contract of employment for all of the country’s 850 hospital consultants. The adjournment came at the first meeting of the working party to be held since the Minister for Health Mr. Corish, announced that hospital services would be available to all citizens without charge after next April.251

The article continues by outlining the preferences of the various interests in relation to Corish’s scheme;

Reaction was strong. The trades unions, housewives and many other sectors of the community – most recently the Catholic Council for Social Welfare with its four episcopal members – endorsed Mr. Corish’s scheme. The medical organisations, predictably, opposed the scheme: It would, they said throw an undue strain on presently over-taxed hospital facilities and it would cost their consultant members substantial portions of their present incomes. Fees which the consultants were receiving from private patients were already being used to subsidise the services which the surgeons rendered to public patients at ridiculously low scales of pay.252

The Irish Times report on the Medical Union’s AGM253, the week after the scheme had been announced, stated the major cause of concern for the consultants:

Extension of eligibility is thought likely to erode considerably the potential for private practice by hospital consultants and the doctors claim that because their private patients’ fees at present subsidised, in effect, their services to entitled patients, there will need to be a complete rethink on the manner of their remuneration.

An agreement between the medical representative bodies and the Department of Health was reached in November 1973 which allowed implementation of Section 55 of the

251 Ibid  
252 Irish Times 22 Sep. 1973  
253 Irish Times 28 Sep. 1973
Health Act 1970 which extended consultant radiologists and pathologists the eligibility to engage in private practice in public hospitals. Previously, these non-clinical consultants employed in public hospitals could not charge for their services to the private patients of their clinical colleagues. A preliminary meeting between the sides was held in mid-December 1973. The broadening of private practice entitlements seemed to set a tone of cautious cooperation in the early negotiations, with an editorial in the Journal of the Irish Medical Association indicating that the majority of hospital consultants would probably participate in the proposed scheme, if their professional independence could be guaranteed and they considered the terms fair. However, they expressed concern that the negotiations could not be completed by the 1 April deadline and maintained that they would not take part in the scheme unless a satisfactory agreement had been reached. The consultants’ negotiating position was to seek an agreement that would offer the consultants the option of providing services either on a salary basis or on a fee for service basis.

The negotiations started in early January, with meetings held on each subsequent Thursday. A letter sent by the Minister to the consultant representative bodies on Wednesday 13 February stated that he could not allow a contract on a fee for service basis. He further stated that he was not willing to postpone the introduction of the scheme on 1 April; consequently he was offering an interim scheme that would offer free hospital services for all patients as long as they received their treatment in a public ward. Patients could still opt to be treated privately if they so wished and had the ability to pay or were privately insured.

255 Irish Times 17 Dec. 1973
256 Irish Times 17 Dec. 1973
257 Irish Times 15 Feb. 1974
258 Ibid

233
The scheduled meeting for the following day did not occur with the medical representative bodies seeking, instead, a direct meeting with the Minister. This meeting occurred on 21 February 1974, where a 34-person delegation of the medical representative bodies sought to have the scheme postponed for 6 months. The Minister stated that he was not attracted to a fee system and that he couldn’t reach an agreement whereby each consultant would have the option to choose between a schedule of fees or a salary. He further stated that it might be possible to work towards a system with a guaranteed minimum income by salary with some supplements payable for extra work.

The medical side pointed out that the Minister was asking them to become employees of the state without any conditions of service being fixed in advance. They further pointed out that there was nothing sacrosanct about 1 April deadline and suggested that a delay of 6 months would allow the negotiations to come to conclusion. They stressed that they accepted without reservation the right of the Government to decide the extent of the nation’s health services and said that they were eager to resume negotiations as soon as they heard from the Minister.

On 27 March 1974, The Minister for Health and Tánaiste Brendan Corish announced “in what must have been one of the least unexpected statements ever made to the Oireachtas” that he was postponing the Government’s proposed hospital scheme. He stated to the Dáil,

I want to assure this House that it is my express determination as Minister for Health to help create an Ireland where the cost of being sick is not for anybody a cause of illness. I want to assure this house that I will not be deflected from my decision – and the Government’s decision – to bring in the new scheme.

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259 Ibid
260 Irish Times 22 Feb 1974
261 Ibid
262 Ibid 28 Feb. 1974
263 Dáil Éireann Debate Vol. 271 No. 7 27 Mar. 1974
The Minister at a press conference later was at pains to state,

I want to emphasize that in introducing free hospital care and maternity services for all members of the community the Government were not eliminating private practice for consultants or forbidding patients to enter private or semi-private wards in a hospital but were giving every member of the community, without distinction, the option of free treatment and maintenance in a public ward if so desired.\(^{264}\)

The scheme was never realised and the issue of the consultants’ contract did not meaningfully arise again until 1977.

**The Consultant/Management Relationship**

At the time of the Fitzgerald Report, consultants had different employment conditions depending on the type of hospital they worked in, with no standard relationship with management. The Report\(^{265}\) recommended

...the creation of an authority to be called the Consultants Establishment Board. The primary function of the Consultants Establishment Board should be to co-ordinate consultant appointments and to approve the creation of necessary new consultant posts...In addition to its primary functions...the Board would lay down qualifications and the broad scope of duties for such posts and would aim to ensure that conditions for all consultants were equivalent. In this connection, we consider that all consultant appointments should be on a notional sessional basis.

The Report\(^{266}\) continued that the Board should have the right

...to recommend that certain posts carry additional remuneration. Where a number of consultants in the same speciality are attached to a hospital department, one of them should have administrative responsibility for the department and should be paid some additional remuneration.

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\(^{264}\) Irish Times 28 Feb. 1974

\(^{265}\) Fitzgerald Report (1968; 42-43)

\(^{266}\) Fitzgerald Report (1968; 43)
In relation to existing consultant posts, it stated that “all...would be approved and invited into contracts with the Regional Board on terms which would take into consideration their present contracts, or terms of appointment, either formal or implied, without detriment to the position of any existing consultants”. Finally, as regards membership of the Consultants Establishment Board, the Report states “…the Board will rely largely on the advice and knowledge of its technical members and, consequently, we recommend that at least two-thirds of the members be medical practitioners.”

Given that the Fitzgerald Group was made up entirely of senior consultants, some of whom were active in medical politics, we can reasonably infer that their views were broadly reflective of the consultants’ preferences at the time. From the above, we see that they have a preference for a standardisation of consultants pay and conditions and the establishment of a board to decide these matters, upon which they have a two-thirds majority. They wish to give this board the right to decide on new consultant appointments; the scope of duties for the appointment; the ability to standardize the conditions for all consultants and the ability to recommend additional remuneration. They further request that existing consultants be appointed on terms that would not be detrimental to them and that where appropriate, consultants be managed in a team by a consultant manager. We see from the above that the consultants express a desire to be given as much control over the hospital system as they can extract from government.

In relation to Government preferences, Dermot Condon, Secretary General of the Department of Health in the 1980’s, noted in a memo to Barry Desmond in 1983 that

The need for standard conditions of service for consultants working in hospitals providing services under the Health Acts (voluntary hospitals as well as health board hospitals) had been widely accepted by all concerned for a long time (underlining in original memo) 

267 Ibid (1698; 44)
268 Ibid (1698; 42)
269 Memo Condon to Desmond (1983) p.2 Barry Desmond’s private papers
We see from the above that both management and consultants want to see changes in management structures of the hospital system. The consultants have the clearest view of the direction in which they want to move. They want the standardisation of consultant terms and conditions, and body under their control, to decide those terms and conditions, and the future of consultant recruitment.

**Degree to which Groups’ Preferences are reflected in Outcomes and their Statements on the Outcomes**

**Private Practice and Clinical Independence**

When Corish announced to the Dáil that he was postponing the Government’s free hospitalisation scheme, he stated,

> To my intense regret I have received neither the understanding nor the co-operation which I could have expected as Minister for Health charged with the responsibility of implementing a policy decided upon by the Government elected by this Parliament. Instead representatives of the medical consultants opposed the introduction of my scheme until such time as they decided the population should have free hospital and medical services.

The Dáil correspondent of the Irish Times, John Healy was definitive in assessing who made the policy decisions in the health arena. In an article entitled "Formidable consultants put Minister Corish into the casualty ward" he states

> It was quite a day for screwing Ireland yesterday and between both Houses of the Oireachtas we got a rare look at who rules the State we call the 26 counties. We go along with the polite fiction that we elect representatives and appoint a Government to govern and while we all agree it is a second best system at the best of times, yesterday we got a glance of a fourth rate system at the worst of times. Yesterday we watched a Minister in a sovereign Irish Government forced to his knees in the chamber of the house by unseen medical musclemen who forced him further to declare

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270 Dáil Éireann Debate Vol. 271 No. 7 27 Mar. 1974
that free-medicine for all is off for the time being. From his knees and with his chin half buried in the carpet, Brendan Corish, Minister for Health tried putting a face on it. Read his script and see how he structured it. From the humiliating floor, he positively appealed to the plain people of Ireland to get the fat-cat medics off his back.\textsuperscript{271}

Corish explained his reasons for postponing the scheme

\ldots in order to avoid any danger to human life and to avoid confrontation with the consultants on this occasion in the hope that they will reconsider their general attitude\ldots if they propose to restrict admission to hospitals, then human health and even life could be placed at risk. I am not prepared to take such a risk\textsuperscript{272}

At the IMA AGM, a couple of weeks later, a motion was passed that reaffirmed the consultants' commitment to private practice\textsuperscript{273}

We see also that just prior to the scheme's negotiations; they succeeded in having private practice rights extended to all consultants in public hospitals under Section 55 of the Health Act 1970. The consultants were succesful in getting their private practice rights extended by a Labour party Health Minister. This is the only solid policy outcome of the talks.

\textbf{The Consultant/Management Relationship}

The near term political and legislative outcome of the Government White Paper on Health and the Fitzgerald Report was the Health Act 1970. As Wren (2003; 48) sums up, "this was administrative change rather than improved access, and on terms that suited the profession". The consultants preferences, in relation to important administrative aspects of the Health system were significantly met in the Health Act (1970).

\textsuperscript{271} Irish Times 28 Mar. 1974
\textsuperscript{272} Dáil Éireann Debate Vol. 271 No. 7 27 Mar. 1974
\textsuperscript{273} Irish Times 18 Apr. 1974
As we saw above, the consultants had sought control of consultant recruitment by the setting-up of a “Consultants Establishment Board”. The Government provided for this body under the title ‘Comhairle na n-Ospidéal’\(^{274}\), however, they did not accede to the wish that “at least two thirds of the members be medical practitioners”\(^{275}\). Section 41(1) of the Health Act 1970 states in relation to the membership of Comhairle that “Not less than half of the persons appointed to be members of the council shall be registered medical practitioners engaged in a consultant capacity in the provision of hospital services”. While the medical profession did not get their wish of a two-thirds majority, they still were allowed the crucial majority.

While the consultants may have been gained ground in the Act, they were not given a completely free run. Critically, section 14(3) of the Health Act, 1970, states “An officer or servant of a health board appointed under this section shall hold his office of employment on such terms and conditions and shall perform such duties as the chief executive officer from time to time determines.” This as we can see, gave the non-medical CEO, the right to determine the duties of the consultant; hospital management, for the time being, retained some ability to manage their hospital consultant staff.

In relation to the standardisation of consultants’ employment conditions, as we saw above, a working party to make recommendations on a common contract was set up by Minister Childers in December 1972. A common contract would necessarily set out the relationship between management and their consultant resources.

Brown and Chadwick (1997; 195) point out that the Fitzgerald report

…signaled an era of partnership between the Department of Health, the medical profession and the voluntary hospitals. Generally the 1970’s stands out as a period when the medical profession were facilitated in making an input into policy formation through their participation in health boards, working groups, and advisory bodies such as Comhairle na

\(^{274}\) Health Act 1970 Section 41
\(^{275}\) Fitzgerald Report (1968; 42)
Ospidéal, the establishment of which had been recommended by the Fitzgerald Report.

From the outcomes above, we see this “partnership” was mainly on the consultants’ terms.

**Period 1 Analysis**

We see from the above that the medical profession could exert considerable influence to determine outcomes in the health system and this extends to the terms and conditions of their employment. They take the opportunity when asked to decide on the future of hospital services to recommend improvements in their terms and conditions. The Health Act 1970 reflects to a large degree their wishes: Comhairle na nOspidéal is established, Section 55 of the Act extends consultants’ private practice rights and the Health Boards are established which gave the medical profession important influence in the management of hospitals at a regional level. When Corish tried to introduce a scheme that threatened their private practice income, they face down the government and veto it with success. These are important interim measures of the consultants influence.

The consultants during this period are certain of their policy goals, well organised and capable of exerting a strong form of influence on government. In comparison, government is unsure of its aims and prone to making strategic errors. Reflecting on the Government’s defeat, in a memo to Barry Desmond in 1983 Dermot Condon, believed that Corish and the cabinet had put the Department officials in a very difficult negotiating position; firstly, by the Government unilaterally deciding to extend universal free hospital and consultant services to the whole population; and “more damagingly still that the new arrangements would come into operation on a pre-determined date.”

The Taoiseach at this time Mr. Liam Cosgrave, in an interview stated that the consultants were a powerful group. He further noted the rising violence in Northern Ireland had

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276 Memo Condon to Desmond (1983) p.2 Barry Desmond’s private papers
meant that the government would not have been able to devote as much time to domestic issues as normal. He also stated that he believed that if the consultants had moved with Corish, he would have ensured that they were properly remunerated.277

As stated above the consultants exerted considerable influence during this period on outcomes. Their wishes, as expressed through the Fitzgerald Report, are generally accepted. There is no evidence of the Government trying to long-finger any of the proposals. The consultants achieve interim goals of Comhairle na nOspidéal, positions on the Health Boards, a working party to negotiate the common contract and an extension of private practice rights. They further veto the Government’s stated policy. However, the Government did maintain some control over policy. It reserved the ability to determine a consultant’s workload for the CEO of public hospitals and it did not grant the consultants wish of a two-thirds majority on Comhairle na nOspideal.

277 Interview Liam Cosgrave
6.3.1.2 Period 2 – 1974 – 1981

Timeline

In the aftermath of the showdown between the consultants and the Government, the issue essentially remained off the agenda until Fianna Fáil returned to office in June 1977. Charles Haughey, the new Minister for Health, appointed a new Working Party, to make recommendations on a common contract, in December 1977. Brendan Hensey, the Secretary General of the Department of Health, acted as Chairman. It produced an Interim Report in September 1978. A new Chairman, Rory O’Hanlon SC was appointed to “price” the contract and a further report was presented to Government in July 1979. Practically, all the consultants’ wishes were granted in the new contract, although some of the voluntary hospital consultants expressed concern about signing up to an “industrial” type contract that might limit their clinical independence and private practice. The contract was offered to the consultants in April 1981. Most of the reticent consultants signed up to the contract after they had been assured that that their time commitment to their public patients would not be measured.

The Actors’ Preferences; Their Attempts to Influence Policy and Their Interaction with Decision-Makers

Private Practice and Clinical Independence

A consultant’s ability to engage in private practice is cherished from both an income and clinical independence standpoint. When the Minister for Health, Michael Woods, addressed the IMA AGM in 1980 and outlined his philosophy on health, he stated, that “I will continue to recognise the value and contribution of private practice.” For this he won a round of applause from the assembled doctors.

We also see in a profile of Haughey, by Olivia O’Leary, she stated

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279 Irish Times 10 Apr. 1980
280 Memo Condon to Desmond (1983) p.6 Barry Desmond’s private papers
281 Irish Times 14 Jan 1980
282 Ibid 20 Oct. 1979
And doctors, who are the most private of private entrepreneurs, know that Haughey, unlike Brendan Corish, poses no ideological threat to private practice...But while doctors jealously guard the right to private practice for the obvious financial opportunities, they also treasure it, they say, for reasons of professional independence. While that may be a conveniently high-minded excuse, it is nevertheless true that the medical profession feels a sense of professional responsibility to the public

We see from the above, that both Haughey and Woods, as Fianna Fáil Ministers, are supportive of private practice.

Haughey established a new Working Party on a common contract, soon after he assumed the Health Portfolio. Unusually, the Working Party was given no specific terms of reference by Haughey, “who on the occasion of its first meeting on 2 December 1977 asked the Working Party to undertake its task in a spirit of goodwill and co-operation and to make recommendations to him as soon as possible”. McKevitt (1990; 125) noted “the Department of Health entered the discussions without any clear negotiation stance.”

The Working Party delivered an Interim Report in September 1978 and a draft contract was circulated to all parties for observation the following month. In July 1978, barrister and future High Court judge, Rory O’Hanlon SC took over the chairmanship of the Working Party, with the task “pricing” the contract. A second report was delivered in July 1979. On the occasion of the IMU’s AGM in October 1979, it was expected that Haughey would announce his recommendation of the contract. However, he stated that the IMA wanted further negotiations. The conference also discussed a recent call by ICTU to introduce free medical services for all. Mr. McCann of the IMU said they regarded such a call as being detrimental to the best interests of his members. The Irish Times stated

284 Memo Condon to Desmond (1983;3&4) Barry Desmond’s private papers
285 Irish Times 19 Oct. 1979

243
At present, 85% of the population enjoy free medical services, leaving 15% which, the Medical Union claims, can afford to pay for private treatment. Mr McCann said that if government wanted to extend the figure of 85% the Medical Union would be willing to negotiate, but the *quid pro quo* was that it would seek the introduction of a schedule of fees-effectively putting a price tag on each complaint treated.²⁸⁶

A second draft of the contract was circulated in February 1980. The two medical organisations conducted ballots of their members with the IMU voting to accept and the IMA to reject. The IMA, which mainly represented consultants in the Dublin voluntary hospitals, voted against the contract and negotiations continued with the IMA over the following months. Condon stated,

> After the Department had assisted in making the manner of fulfilling a consultant’s service commitment less time restrictive, the Association decided to allow its members a ‘free vote’ should the contract be offered to them.²⁸⁷

Woods announced that he was offering the contract to all consultants from 1 April 1981. When he announced this at the IMU annual conference in October 1980, he received a standing ovation from the assembled medics.²⁸⁸

**The Consultant/Management Relationship**

During the negotiations, the consultants, particularly the voluntary hospital consultants represented by the IMA, attempt to achieve as much freedom from management as possible. They do not come up against much opposition from the Government. The IMA stated that they were particularly worried that a contract with the State would erode their clinical independence and that the contract was an “industrial” contract rather than a “professional” contract.²⁸⁹ These objections centred on the degree of, what they referred to as, “bureaucratic supervision” of their activity and the notion of being paid an hourly rate.²⁹⁰

²⁸⁶ *Ibid*
²⁸⁷ Memo Condon to Desmond (1983; 3&4) Barry Desmond’s private papers
²⁸⁸ *Ibid* p.4
²⁸⁹ Irish Times 18 Apr 1980
²⁹⁰ *Ibid* 19 Apr. 1980
As we saw above, when Haughey appointed the Working Party, he did not give them any terms of reference. This left the Department of Health in a very weak negotiating position. Woods as Minister for Health was amenable to the consultants. In an interview, he stated that as a scientist himself, he had an appreciation of people totally devoted to their work at a high intellectual level and that as such they should be granted freedom in their work. He further elaborated that the consultants feared excessive bureaucracy.291

Degree to which Groups’ Preferences are reflected in Outcomes and their Statements on the Outcomes

Private Practice and Clinical Independence

To give a sense of the degree to which the consultants’ preferences are met in the common contract it is worthwhile to examine a previous consultants’ contract in relation to private practice. Section 4 of the contract sets out the private practice rights of four “broad categories of consultants” and is the most detailed of the contract.292 Looking at each broad category of consultant separately:

1. Physicians, surgeons, obstetrician/gynaecologists, psychiatrists

These consultants are allowed the use of no more than four beds at any one time, (or the equivalent number of bed days per annum) for their private practice in their designated hospital, subject to conditions as determined by the health board with the consent of the Minister.

2. Anaesthetists

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291 Interview with Dr. Micheal Woods
Anaesthetists are sub-divided into two categories; those with a contracted commitment of 27-hours each week and “whole-time” anaesthetists. The “27-hour” anaesthetists were allowed to deliver private practice, to the private patients’ of other consultants in a health board hospital. Anaesthetists who exercised this right had their salary deducted by £1,320 p.a. They were also allowed to practice outside of their designated hospital(s).

The whole-time anaesthetists were allowed to engage in private practice “to such extent as in the opinion of the chief executive officer will not interfere with the efficient performance of his official duties.” No salary deduction was made but the anaesthetist was confined to practice in their designated health board hospital(s).

3. Radiologists

Radiologists could charge, at the same scale used in the voluntary hospitals, the private patients of other consultants in their designated hospital(s) and to “private extern patients referred by outside doctors”. Of the fees collected, the radiologists had to pay 33% to the health board. The contract also expressly forbids an anaesthetist from giving priority to private patients.

4. Pathologists

Pathologists were permitted to charge fees for private patients, at the same scale used in the voluntary hospitals. Of the private fees collected, the pathologist had to pay the health board 33% of the first £5,000, 66% of the next £5,000 and 95% in excess of £10,000 collected in any one year. The pathologists were subject to the same regime of accounts inspection as the radiologists.

293 As a point of reference the average industrial wage in 1981 was £6,387.70
Comparing with the above, paragraph 12 of the newly negotiated common contract states simply “You may engage in private practice inside and outside the hospital or hospital group” It further refers to terms in paragraph 5.22 of the Interim Report which states

(1) Each consultant shall be entitled to have provision for private practice in his contract.
(2) Private practice outside the hospital in so far as it does not prevent the fulfilment of terms of the contract, shall not be restricted.
(3) Medical need should be the overall criterion for hospital service and admissions should be governed accordingly. However, a hospital authority may, if it thinks it necessary in the interests of persons in the area it serves, limit the facilities to be made available in or at the hospital for non-urgent cases which are fee paying patients of a consultant. Any such limitation shall be fair and reasonable and shall be based on the principle that medical facilities shall be equally available for all patients.

As we shall see below, the above wording in the new contract resulted in much freer private practice rights for consultants. The Pricing Report of the Working Party agreed when it stated

...the Common Contract represents an improvement in the conditions applicable to consultants under the existing Health Board Contracts in a number of important aspects. In the first place, the entitlement to engage in private practice...would appear to be less restricted than the set formula which applies in the case of the present “whole time” appointment.

The above also may explain the difference of attitude of the IMU and IMA. The consultants of the IMU had largely, previously, been employed under the Health Board Contract. It is obvious to them that the new contract grants them much freer private practice rights than they had been used to. The IMA, on the other hand, largely represented the consultants who had access to “the lucrative Dublin Voluntary Hospital

294 It is important to clarify the status of the Interim Report; Paragraph 2 of the contract states “…While not being itself a contract document, the Interim Report…may be referred to in construing the provisions of the contract.”

295 The Pricing Report was second report of the Working Party and produced under the Chairmanship of Rory O’Hanlon

296 Quoted in Mc Kevitt (1990; 127-128)
were not used to supervision by the state. The IMA consultants had more varied but generally freer conditions of employment depending on their hospital and specialty and would not have been used to contract negotiations. Condon (1983 4); continues

...it was particularly unfortunate that they [the IMA] made little real, effective contribution to the debate. I suspect that this was due to an absence of policy on the part of the Association as to the nature of the new form of contract among different interest groups within the Association.

The inability of the IMA to agree a firm policy line dragged the negotiations out over the course of 1980 and as we saw above, the intervention of the Department of Health to make the consultant’s time commitment less restrictive allowed the IMA to grant its members the freedom to accept or reject the contract on a personal basis.298

In relation to clinical independence, the Interim Report defines a consultant and outlines the parameters of clinical independence, in paragraph 2.1. It states,

A consultant is a registered medical practitioner in hospital practice who, by reason of his training, skill and experience in a designated speciality, is consulted by other registered medical practitioners and undertakes full clinical responsibility for patients in his care without supervision in professional matters by any other person. He will be a person of considerable capacity and personal integrity

With regard to the consultant/patient relationship the report states, in paragraph 2.2 that

Being a consultant involves continuing responsibility for investigation and for treatment of patients without supervision in professional matters by any other person. This continuing responsibility for investigation and for treatment of patients is a personal matter between each consultant and each patient in his care and it extends for as long as the patient remains in the consultant’s care. The consultant may discharge this responsibility directly in a personal relationship with his patient, or, in the exercise of his professional judgement, he may delegate aspects of the patient’s care

297 Memo Condon to Desmond (1983; 4) Barry Desmond’s private papers
298 Ibid p.4

248
to other appropriate staff, or he may exercise the responsibility concurrently with another doctors or doctors. Notwithstanding this, however, the unique position of the consultant in the hospital requires that he cannot shed the continuing responsibility for his patients so long as they remain in his care.

Further the contract states in paragraph 7.6:

In the discharge of this service commitment the (contract holding body) acknowledges your right to the exercise of your independent judgement in medical and ethical matters; your right to be consulted by (contract holding body) on matters of substance in relation to the operation of your department or unit...your right to have available to you from (contract holding body) reasonable facilities and resources for the proper discharge of your duties.

We see from the above that a consultant takes “full clinical responsibility”\(^\text{299}\), and “in professional matters”\(^\text{300}\) is not supervised by anyone.

Barrington (2003; 108) notes

The contract appears to exclude not just the consultant’s clinical practice from supervision but wider ‘professional matters’ such as how he or she spends contracted hours, the extent of private practice carried out, the resource implications of clinical decisions and his or her supervision of non-consultant hospital doctors.

Further, the relationship between patient and consultant is a “personal matter”\(^\text{301}\) and the consultant holds a “unique position”\(^\text{302}\). What these clauses of the Interim Report do is assert the role of each consultant as the unsupervised and sole supplier of clinical services. Once the patient and consultant have come into contact nobody else can intervene, except in extremely limited circumstances.


\(^{300}\) Ibid


\(^{302}\) Ibid
We also see that the consultant may in his “professional judgement” delegate aspects of the patient’s care to other appropriate staff.” This was important because it effectively meant that a consultant, without referral to management, could delegate work to junior medical staff. The consultants, themselves were aware, that the ability to delegate and the right to private practice led to inequitable outcomes as regard public patients. A 1975 IMA working party report states that public patients were

...less likely to have an operation performed by a consultant surgeon. They are more likely to receive their day-to-day medical attention from resident staff...Patients attending out-patients' departments are treated less well, first because of long waiting and poor physical conditions, and secondly because they are often seen by residents who, in our opinion, may not be competent to deal with their problems.

Specifically, the contract states in relation to clinical independence that the contract holding body “acknowledges your right to the exercise of your independent judgement in medical and ethical matters” and ”your right to have available to you from (contract holding body) reasonable facilities and resources for the proper discharge of your duties”. What we will see below and later is that the definitions on clinical independence and resources were used by the consultants to avoid being answerable to management but continue to expect to be given whatever resources they personally decided they needed.

The Consultant/Management Relationship

From the section above on private practice, we are beginning to see the interconnection between the right to private practice, clinical independence and the relationship between hospital management and consultants. The management relationship in the contract is set out in paragraph 4.2 which states

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303 Ibid
304 Report by an IMA working party on the feasibility of a compulsory specialist and hospital insurance scheme (1975)
305 Para 7.6 Common Contract 1981
306 Ibid
On appointment you will hold office under (contract holding body); where the appointment is under a health board, Part II of the Health Act, 1970 will apply to the appointment.

The relevant section of Part II of the Health Act, 1970 with regards to the management relationship is section 14(3) which states

An officer or servant of the health board appointed under this section shall hold his office or employment on such terms and conditions and shall perform such duties as the chief executive officer from time to time determines.

Consultants who worked in the Voluntary Hospitals were not subject to section 14 (3) and their working practices were decided by the individual hospital boards. The quote from Condon above gives an indication of the type of supervision they were used to. The hourly time commitment of the consultant is set out in paragraph 7.2 of the contract. It states “the scheduled service commitment of this appointment in respect of eligible patients shall be 33 hours per week”.

A consultant’s management duties are detailed in Paragraph 2.3 of the Interim Report which states

Being a consultant also includes, to such an extent as may be relevant in the case of each appointment, responsibility for the running of his particular department or unit of the hospital…in administration outside the management of his own particular department or unit of the hospital and in those matters which the employing authority and consultant agree are appropriate.

In relation to the management of private practice, as we saw above, the Interim Report states that “medical need should be the overall criterion for hospital service and admissions should be governed accordingly…”307

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We see that in submissions to the Gleeson Review Body (1990; 24) hospital management "referred to the obligation on them to deliver a health service in a situation where it was recognised that prioritisation of services was a necessary feature... [and] that the contract did not permit them to manage consultant resources in a way that is considered necessary in this context."

This is where the tensions between private practice, clinical independence and the consultant/management relationship become obvious. Firstly, as we saw above, management of public hospitals were given the right to determine from time the time the duties of their officers in the Health Act 1970. However, the management relationship, in the Interim Report is poorly defined in the sense that it does not clearly delineate management's role in directing its consultant's manpower. It states the consultant should be involved in those matters that both "the employing authority and consultant agree are appropriate."\textsuperscript{308} We see from this that it allows the consultant to be managed only in as far as the consultant agrees is appropriate.

However, when it comes to rights of the consultant, the Interim Report is unambiguous in stating that the consultant "undertakes full clinical responsibility for patients in his care without supervision in professional matters by any other person"\textsuperscript{309} and that this relationship is a "personal matter"\textsuperscript{310} between the consultant and patient. The contract notes specifically in relation to clinical independence "In the discharge of this service commitment the (contract holding body) acknowledges your right to the exercise of your independent judgement in medical and ethical matters"\textsuperscript{311}.

\textsuperscript{308} Para 2.3 Interim Report of the Working Party on a Common Contract & a Common Selection Procedure 1978
\textsuperscript{310} Para 2.2 Interim Report of the Working Party on a Common Contract & a Common Selection Procedure 1978
\textsuperscript{311} Para 7.6 Common Contract 1981
The fact that the relationship is a "personal matter" and that the consultant can operate without supervision in professional matters reinforces the preclusion of management or even a consultant employed by management from being able to intervene. This is important with regard to private practice because, as we saw above, "a hospital authority may, if it thinks it necessary in the interests of persons in the area it serves, limit the facilities to be made available in or at the hospital for non-urgent cases which are fee paying patients of a consultant." However, how can a non-medical CEO of a hospital determine which cases are urgent or not, when a person with the necessary expertise cannot intervene because the relationship between his employee and client is protected as "personal"? As we can see, the contract gave management little right to control the amount of private cases a consultant could take on inside or outside the hospital. We also see that as regards time management, the contract stated that a consultant was contracted to do 33 hours. However, the contract also states "It is not intended that there should be an exact measurement of the time spent by you in discharging your contract." Finally, the paragraph on clinical independence states that the consultants had a "right to have available to you from (contract holding body) reasonable facilities and resources for the proper discharge of your duties." There is no attempt to define what is "reasonable" in the contract nor does it make any reference, unlike the previous contract, on any limitation on the amount of private practice a consultant could undertake.

The result of the contract for the management relationship was that hospital management were not able to direct, control or manage their consultant manpower in any meaningful way. The Gleeson Report found that the consultants objections to being managed on grounds of clinical independence were spurious and stated that private hospitals and

314 Para 7.6 Common Contract 1981
hospitals abroad were able to direct their consultant manpower without claims of interference being made on clinical independence grounds.

Dermot Condon summed up the Department’s view of the contract in 1983

We have never been satisfied that the contract reflects in any reasonably adequate manner the high standard of professionalism which should be the hallmark of a consultant. The IMA must shoulder the blame for this

Barry Desmond was appointed Minister of Health in December 1982. While reading himself into his brief, Desmond was shocked by the conduct of the negotiations in relation to the common contract. He states

The one thing that really shocked me to the core was the Haughey file, of the Haughey negotiations – so called negotiations - on the common contract. I immediately realised that the pass had been sold, the game was over in so far as Haughey had walked off the pitch and given them free aim at the goal and they had scored on all fronts. It was really a dreadful situation...when it came to the hard-nosed negotiations...he simply gave them whatever they wanted. He bought them off.\(^{317}\)

**Period 2 Analysis**

The new contract was a resounding victory for the consultants. They were to a very large degree successful in being granted their full wish list of outcomes. They secured practically unlimited private practice rights and obtained virtually complete freedom from management.

A senior Department of Health official in describing the contract said

I think we sold the pass or the political system...sold the pass in 1981 and gave them a hugely hugely generous contract.\(^{318}\)

Wren (2003; 57) stated the contract

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\(^{317}\) Interview with Barry Desmond

\(^{318}\) Interview with senior Department of Health Official
...gave them the best of all worlds – state salaried, pensionable posts, with the right to unlimited private practice in or outside public hospitals. This consultants’ contract turned heavily subsidized, private medicine into a growth industry, encouraged by the development of private hospitals staffed by consultants on state salaries.

The IMA by not agreeing to the early drafts of the contract secured a much more liberal contract. Similarly to the Corish scheme, the Government realised that if the Consultants did not agree to something then it was practically impossible to move ahead with it. A split in any camp can be advantageous to the opposition however; the consultants could exert such influence that their differences in opinion resulted in effectively all their individual wishes being met.

In the contract itself, the Health Board hospital consultants were granted much freer private practice rights, while the voluntary hospital consultants were awarded a public salary, a pension, and all the rights and protections included in a public sector employment contract. All consultants were effectively granted unlimited private practice rights with the ability to use public facilities, material and other staff, free of charge, for that work. In return, consultants were to work 11 notional 3 hour sessions for their public work. However, the contract stated that consultants’ hours wouldn’t be measured. This allowed the consultants to decide unilaterally how much of the public commitment they would fulfil and as we will see, this time was encroached upon by private work. As we saw above, the Fitzgerald Report recommended that any new contract should be “on terms which would take into consideration their present contracts, or terms of appointment, either formal or implied, without detriment to the position of any existing consultants”. This is what occurred and more.

Haughey, as Minister for Health, used the position to build populist support in his bid to become Taoiseach. Wren (2003; 57) states “As Minister for Health, he was generous with the state’s resources...he capitulated to local demands with a rapid and un-planned expansion of health services”. Health spending more than doubled in an unplanned
manner during his time as Health Minister. Haughey sent the Department of Health personnel into the working party with no clear negotiation position. It is clear Haughey did not want any political trouble to arise from the negotiations. On becoming Taoiseach, Haughey appointed Dr. Michael Woods TD “a mild mannered horticultural scientist in the shadow of his leader” (Wren 2003; 60). In an interview Woods admitted that Haughey went behind his back in negotiating with the consultants.319

During this time, the consultants exploit the weaknesses in the political and administrative system to extract an enormously advantageous deal. The fact that an interest group is a long-term player while politicians are short term players’ gave the interest group a considerable strategic advantage. Once an interest group secures a favourable deal, it is enormously difficult for a government to claw back that concession. The consultants, in this period, again exert considerable influence over their employment conditions. Their primary aim of securing a contract with as much freedom as possible from management to engage in private practice is achieved.

319 Interview Dr. Micheal Woods
6.3.1.3 Period 3 – 1982 – 1987

Timeline

As we saw above, the Department of Health and the new Minister, Barry Desmond, were very unhappy with the new contract. Due to the vague and contradictory wording of the common contract, hospital management had little or no right to direct, measure or control a consultant’s activity. The economy was now in severe recession and it was increasingly necessary for the Government to control spending. The common contract was not due for review until 1986, consequently, Desmond believed that one of the few means he had of salvaging some control of hospital expenditure was to charge consultants for their use of public facilities for private patients. Desmond instructed the Health Boards to collect the fees directly from consultants. The consultants refused to cooperate. The Health Boards proved incapable of collecting the fees. Desmond then deducted the amount owing by consultants from the Health Boards’ central allocation of funds.

During this recessionary period, private medicine boomed. The severe recession that lasted most of the 1980’s placed the financing of the public health system under severe strain. Consequently, public waiting lists increased while private medicine offered faster access to treatment; if you were willing and able to pay. The irony was that this treatment was mostly delivered in a public hospital, using publicly funded materials, by a consultant working on public time. The Irish Health system became increasingly a “two-tier” health system, where private patients were granted faster access and a better service.

This period also saw the emergence of purely private, “for profit” clinics. The Blackrock clinic was launched in April 1986, with the Mater Private Clinic opening soon afterwards. Desmond prevented the VHI from subsidising these new hospitals by

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320 Irish Times 2 & 30 Mar, & 5 Oct 1984
321 Ibid 13 Mar 1985
ensuring that the VHI offered a separate policy for subscribers who wished to avail of their facilities. He also prevented the VHI from directly investing in the clinics. The IMA and the IMU merged in 1984 to form the IMO.

The Actors' Preferences; Their Attempts to Influence Policy and Their Interaction with Decision-Makers

Private Practice and Clinical Independence

The medical profession had succeeded in obtaining much freer private practice rights in the Haughey/Woods contract and remained committed to them.

Wren (2003; 66) states

With the introduction of the common contract, salaried consultants in public and voluntary hospitals pursued their right to private practice and private medicine boomed.

Membership of the VHI jumped from 20.7% of the population in 1979 to 29% in 1986.³²² This increase occurred during a period of severe and prolonged economic recession. The consultants’ commitment to private practice can also be seen by the founding of private “for profit” clinics. Both, the Blackrock Clinic and the Mater Private opened for business in 1986. Wren (2003; 68) describes the Blackrock Clinic as “an entirely private enterprise albeit staffed largely by consultants with public contracts in other hospitals”. The chief executive of the new hospital Mr. John P. Naughten stated “we are not interested in dealing with long-term chronic illnesses”.³²³ Evelyn Sheehan, also of the Blackrock Clinic further added,

...Some of our consultants are working in public hospitals on the common contract...Some have come from abroad. We have a nice mix here.³²⁴

³²² Wren (2004; 66)
³²³ Irish Times 9 Apr 1985
³²⁴ Irish Times 9 Apr 1985
Barry Desmond, perhaps more so than his Labour party colleague and Ministerial predecessor, Brendan Corish, found private medicine distasteful. The developers of the Blackrock Clinic asked the VHI (The VHI were the state-owned monopoly supplier of private health insurance) to become involved as investors. Desmond ensured that they didn’t invest and insisted on a separate insurance policy for the new clinics, to prevent cross-subsidization from other subscribers. The clinics struggled initially.\(^{325}\) Haughey and Woods had also agreed to allow private hospitals to be built in the grounds of public hospitals. Desmond refused to allow these to proceed while he was Minister.\(^{326}\) He stated in May 1984 that

As long as I’m Minister for Health, I’ll refuse to allow the construction of private hospitals in Beaumont, St. James and Tallaght.\(^{327}\)

He further stated that there should be no differentiation between public and private care and that there was no need for private clinics and hospitals.\(^{328}\) Woods stated in an interview that the refusal of Desmond to allow these hospitals to be built undermined the relationship between government and the consultants for a considerable period.\(^{329}\)

Soon after his appointment, Desmond announced his wish for “a fully comprehensive health service available to all, with priorities based on people’s medical needs rather than on their ability to pay for services”\(^{330}\). A draft Green Paper on Health Services, which was written between May and July 1984 but never published, reflected on changing the common contract in relation to extending free consultant services, it stated that

Strong opposition could be anticipated from the consultants who would probably see a threat to their incomes from private practice. There is no reason to believe that the attitudes of the medical profession towards such

\(^{325}\) Wren (2003; 70)  
\(^{326}\) Interview Dr. Micheal Woods  
\(^{327}\) Irish Times 30 May 1984  
\(^{328}\) Ibid  
\(^{329}\) Interview Dr. Micheal Woods  
\(^{330}\) Irish Times 18 Jan 1983
a change would be materially different from the stance adopted in 1974 when a similar scheme was successfully opposed.\textsuperscript{331}

The Fine Gael/Labour coalition, however, didn't pursue any serious attempt to reform the system. The severe recession forced Desmond to concentrate his efforts on trying to regain some management control of expenditure.

**The Consultant/Management Relationship**

The Government, during this deeply recessionary period, had a strong need to control public expenditure. As McKevitt (1990; 129) noted

One feature of the Working Party's recommendations was that the scope of a consultant's job included such matters as involvement "in administration outside the management of his own particular department or unit of the hospital". This was not formally specified in the legal contract of employment. Nor was measurement of the consultant's activity. Thus, there was no incentive for the consultant to engage in cost-containment or efficiency in his use of resources, nor indeed, any formal arrangement open to administrative management to engage the consultant in joint working relationships on these matters...As the nature of the environment changed in the 1980's, neither administration nor the professionals had the organisational structures or legal competence to engage in these issues.

Desmond believed that the key means available to him to control hospital expenditure in relation to the private practice rights granted in the contract, was to change the arrangement whereby consultants could use public resources for their private patients because these rights specifically had not been part of the contract negotiations. They were granted by Haughey, in December 1979, the day after he became Taoiseach.\textsuperscript{332} In February 1984, Desmond announced his intention to change the arrangement. With regard to private patients in public hospitals he stated

\textsuperscript{331} Quoted in Wren (2003; 64-65)
\textsuperscript{332} Barry Desmond RTE Radio interview 26 Feb 1984
Where consultants use public facilities for additional earnings over and above their common contract entitlement, all I’m saying is that they should pay a proportion of those earnings back to the hospital – the public facility which I must fund through taxation.

Desmond was simply looking for the consultants to return to a system similar to the previous health board contract. The Irish Medical Union responded,

At the Medical Union Council meeting, the council unanimously decided that any unilateral change in a properly negotiated signed contract held by the country’s consultants would be resisted with all the resources at its disposal.

They believed that the arrangement to use public resources for private patients was covered by paragraph 7.6 of the contract in which Consultants, under their contract, were guaranteed “reasonable facilities and resources for the proper discharge of (his) duties”.

Degree to which Groups’ Preferences are reflected in Outcomes and their Statements on the Outcomes

Private Practice and Clinical Independence

As we can see above, the consultants pursued their right to private medicine to the fullest extent possible. The means that the Government had to curtail this right; were to charge consultants for their use of public facilities for private practice; close hospitals and wards within hospitals; stop private hospitals being built on public hospital grounds, and insisting on separate insurance plans for the “for-profit private clinics”.

As the implications for the public patient of the new contract became evident in the broader public domain, the level of private practice attracted considerable opposition from across the political divide. Fianna Fáil TD, and future Health Minister, Dr. Rory O’Hanlon stated, in August 1985 “There appears to be widespread worry over delays

333 Irish Medical News Apr 1984
334 Irish Times 2 Mar 1984
which public patients have to undergo before operations which are not of the greatest urgency but are still essential.” He further stated that while he accepted that consultants were entitled to private practice, he said, it would be wrong; to force a patient with a right to service under the public system to become a private patient due to cutbacks in health expenditure.  

Pat Rabbitte, Secretary of the Nursing Council of the ITGWU and future Labour TD and Minister stated that they were concerned that consultants were using hospital facilities to enable their private patients to jump the queue. He stated

A medical card holder could have to wait four to six months or longer to use certain facilities, whereas a private patient could use them in a week or in some cases a few days.  

Labour TD Michael Bell at the Committee on Public Expenditure claimed that there were two standards for public and private patients and “everybody knew it” and this system was operated “with the silent consent” of the Health Boards. Various CEO’s of the different health boards denied this but they conceded that they didn’t have a system to monitor the extent of the private use of public facilities.  

It was also reported in the Irish Times that a survey of health board hospitals showed that consultants were holding exclusively private clinics in many health board hospitals and that these were being held during scheduled public duty periods. The article states that “The managements of voluntary and health boards’ hospitals maintain that since the “common contract” was introduced in 1981, the restrictions which used to be applied to private practice have virtually disappeared”.  

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335 Irish Times 10 Aug. 1985  
336 Ibid  
337 Ibid 5 Mar. 1985  
338 Ibid  
339 Irish Times 6 Oct 1986
From the above, we see that the means of controlling expenditure left to Desmond was to close hospital wards and operating theatres. This increased public waiting list times which then encouraged citizens to take out private insurance so that they would be treated faster. The consultants then used their liberal private practice rights to treat these patients and as we saw above they had no incentive to curtail their use of facilities.

Desmond's attempt to charge consultants for their private practice use of facilities was resisted by the consultants who refused to pay the fees charged. The attempt was subsequently dropped by the following Government.

**The Consultant/Management Relationship**

Desmond instructed the Health Boards to collect fees from consultants for the use of public facilities for their private work. The consultants refused to pay.\(^{340}\) The Health Boards and voluntary hospitals proved unable or possibly unwilling to collect the required fees. For example, Bernard Allen TD for Fine Gael stated before the Committee on Public Expenditure, in late January 1986, that The Southern Health Board, of which he was a member, kept no records of the use by consultants of hospital equipment and staff in relation to their private patients

> ...nobody knows how much this is costing the taxpayer...No monitoring takes place, although I understand the Department of Health had instructed the Health Boards to keep records. We can just guess and estimate, but I reckon its running into millions nationally...Over £600 million is being spent annually on hospitals. In a service under pressure and demanding more and more scarce resources, this very loose arrangement isn't good enough.\(^{341}\)

Desmond in an interview stated that the Health Boards had "extraordinary influence" and further said "you had a lot of senior medical people on the health boards and they played

\(^{340}\) Ibid 13 Mar. 1985  
\(^{341}\) Irish Times 29 Jan. 1986
[them] like a trout”. He described the Health Board management system as being completely out of control by the time he became minister. He continued

...talking purely about the common contract all the consultants had to do was to advise the Health Boards that this bloody Minister was trying to destroy their health board’s hospital specialties and it was all swallowed hook, line and sinker. It was a very difficult period.342

Desmond then deducted the amount owing by consultants from the Health Boards central allocation of funding. The scheme met with limited success and was discontinued by the following Government.

**Period 3 Analysis**

Barry Desmond, on assuming office is dismayed to discover the extent of the capitulation to the consultants in the negotiations on the common contract. He set out a vision for a health system based on people’s need rather than ability to pay, but never pursued it. His attempt to charge consultants for their private use of public facilities was resisted and met with limited success. We see, during this period that cross-party opposition to the effects of the common contract emerged. There was widespread criticism of the emergence of the “two-tier” system as a consequence of the contract.

The consultants, on the other hand, extended the freedom they were given in the contract to the fullest extent possible: they held private clinics in time allocated for public patients; they built, invested in and practiced in private clinics; and they used public resources in public hospitals for their private patients.

The consultants again exert considerable influence over outcomes. They extended their ability to engage in private practice and obtained as much freedom from hospital management as they possibly can. We see that they could unilaterally decide when, where and how much they worked. In response, the Government could only invoke

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342 Interview with Barry Desmond
limited policy controls: the Minister was reduced to closing wards; attempting to impose charges on consultants; forcing the VHI to ensure no cross-subsidization of private clinics; and refusing to allow the expansion of private clinics on public hospital sites. The Consultants again display a strong form of control over their outcomes.
6.3.1.4 Period 4 - 1987-1991

Timeline

Fianna Fáil returned to power, as a minority Government, in February 1987. Dr. Rory O'Hanlon was appointed Minister for Health. Talks opened between the new Government and the IMO to review the common contract in September 1987. The IMO split during the talks in October 1988, with the founding of the Irish Hospital Consultants Association (IHCA). The IHCA, more militant than the IMO from its inception, quickly became the de facto voice of the consultants, representing approximately 80% of them. These talks eventually failed and resulted in the commissioning, in May 1989, of a specific investigation by the Review Body on Higher Remuneration in the Public Sector, chaired by Dermot Gleeson SC. It submitted its Report in June 1990.

Negotiations re-started in late September 1990 with a proposed year-end deadline. The talks were plagued with ill-feeling and bad sentiment. The IHCA walked out of the negotiations in January because they had not been informed of an agreement in the “Social Partnership” negotiations to extend free consultant care to the entire population and to introduce a mechanism to control the public-private mix of patients. However, they soon re-entered the talks. The talks hit a further crisis with an argument over clinical independence. A new contract was finally agreed in the latter half of May 1991.

The contract largely in-line with the Gleeson Report provided for the introduction of individual job descriptions; the scheduling of consultants’ work commitments; the development of reviewable practice plans; information sharing; medical audit; clinical coordinator posts; and clinical management structures.

The Actors’ Preferences; Their Attempts to Influence Policy and Their Interaction with Decision-Makers

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343 Irish Times 7 Sep. 1987
344 Interview with Finbar Fitzpatrick
Private Practice and Clinical Independence

As we saw above, the broader political system became concerned about the level of private practice and its effect on waiting lists in the public system. Consequently, the Government came under pressure to curtail the consultants' level of private practice. For example, during the debate on the Health (Amendment) Bill, in April 1987; the contribution of the Fine Gael spokesperson on Health, Bernard Allen, covers most comprehensively the general consensus of several speakers on the subject. He stated:

I would like to mention the terms of employment of medical consultants...My worry is that the terms of employment in relation to these consultants reduce the Department's ability to run the hospital system efficiently...The other major question is whether the terms of the contract give the consultants an incentive to develop — or overdevelop in many cases — private practice which in turn affects the quality of service for the public health patients and puts pressure on these patients to seek extra treatment through the private health care system. My opinion is that the common contract is a disaster. It does not pinpoint clearly the real role and the responsibility of consultants. It excludes specifically monitoring of the private practice arrangements which occur in our hospitals and which are funded by moneys from the taxpayer. The contract and the rules of eligibility for patient care provide an incentive for the use of hospital facilities by the consultants and the development of private consultant practice and as a result have put a heavy financial burden on the State. The consultants must be brought into line with the arrangements operating in Britain. In the British system consultants are obliged to submit certified audited accounts of their earnings and they are restricted to earning 10 per cent of the public income. Even the most conservative estimates in this country would put the consultants' earnings from private practice at least at ten times that. Unfortunately, there is no arrangement to monitor the level of private practice consultants in our hospitals and there is a grave possibility of conflict of interest...The most serious point of contention is the consultants' unrestricted right to private practice. The common contract provides the consultant with the unrestricted right to develop a service of private practice. There is a potential conflict of interest for consultants in relation to admissions to hospital in accordance with medical needs and patients eligible for public health service required to go private as a result. The use of public facilities by consultants for the purpose of private practice can be seriously abused and the greater potential earnings from

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345 Dáil Éireann Debate Vol. 371 Nbr. 6 1 Feb 1987
private practice can divert the time of the consultant from public commitments.

Further, the Chief Executive of the State’s largest hospital said in October 1988, stated “Hospital consultants are in large part responsible for bed shortages and increased workloads for nursing staff because of their tendency to override the hospital’s admission system and bring in their own [private] patients”.346

The upshot of the calls for reform was reflected in the second “Social Partnership” agreement the Programme for Economic and Social Progress (PESP) agreed in 1991; it states “The Government are committed to a radical overhaul and development of our health services” PESP (1991; 24). It further elaborates that “The overriding principle is to provide a comprehensive, equitable and efficient health-care system” and that the “focus is to be on the patient at all times”. The PESP (1991; 28) further committed the Government to providing free consultant care for all from 1 June 1991 but stated “The Government are committed to maintaining the position of private practice both within and outside the public hospital system”.

The Government’s change programme had three central components (Wren 2003; 87)

1. The extension of eligibility for free consultant care to the entire population. (This entailed abolishing the “Category III” patient type)
2. An attempt to control private practice by designating beds in hospitals as being either public or private
3. A revision of the consultants’ contract

The Health (Amendment) Act 1991 and relevant Ministerial regulations provided for hospitals to designate beds as “public” or “private”. The legislation stipulated no explicit ratio; however, the designation through regulation has effectively remained as an 80:20 split between public and private beds since soon after its inception.347

346 Sunday Tribune 16 Oct 1988
347 Wren (2003; 88)
When the IHCA learned, on 17 January 1991, that the above had been agreed, without their knowledge, they walked out of the contract negotiations. The consultants demanded that they be compensated and a study to assess their losses was written into the contract. The IHCA soon re-entered the talks.

Clinical Independence was also a contentious issue in these contract negotiations, when in early April 1991, the IHCA claimed that the Department had put forward proposals that would undermine the clinical independence of consultants. The IHCA chairman Prof. John Fielding said that ‘the latest draft discussion document from the Department stated that if clinical independence had to operate within the reality of “agreed finite resources” that did not constitute clinical independence’.

The Consultant/Management Relationship

Rory O’ Hanlon speaking at the start of the contract negotiations in September 1987, stated that consultants were responsible for ensuring that services were not denied to public patients and that consultants should take a greater part in hospital management. As we saw previously, hospital management had limited control over consultant and other hospital resources due to the Haughey/Woods contract. Hospital management told the Gleeson Review Body of their obligation to deliver a health service and consequently to prioritize certain services. The contract, they claimed, did not permit them to manage consultant resources in a way that permitted them to do so. Consultants in response told the Review Body that hospital management was insensitive to clinical priorities and that inadequate resources were put at their disposal, in breach of the contract.

As we saw briefly earlier, the Gleeson Report found that it was the proper role of management to manage the “quality, type and volume of service provided by hospitals, of

348 Irish Times 18 Jan 1991
349 Ibid 2 Feb. 1991
351 Ibid 6, 8 & 9 Apr. 1991
352 Ibid 9 Sep. 1987
which the services provided by consultants are a very substantial and critical part\textsuperscript{354} but that a consultant should not be “directed in the specific management of an individual patient by a non-medically qualified manager”\textsuperscript{355}. It further stated that “Private hospital management in this country and abroad already insist, in the interests of sound financial management, on the right to oversee and regulate the allocation of institutions’ scarce resources, while preserving the clinical autonomy of the consultant”\textsuperscript{356}.

The Review Body concluded that a system was required which afforded “management the opportunity of controlling the overall shape of the service which a hospital provides and of integrating the inputs of consultants, so as to optimise the efficient use of the hospital resources.”\textsuperscript{357} It considered that a more developed and flexible consultant job description evolving into reviewable practice plans was the way forward to meet the requirements of both sides.

It concludes that “Consultants cannot simultaneously complain about insensitive or inept management decisions being made in hospitals and at the same time decline to participate in those difficult decisions”\textsuperscript{358}. It further states that “Some consultants will have to take on management roles”\textsuperscript{359} and that “It is necessary to develop appropriate structures to allow a relatively small number of individual consultants to take on managerial roles as directors of departments or specialities and managers of groups of other consultants”\textsuperscript{360}. It adds that the onus is on management in the first instance to develop appropriate structures and draws attention to a paragraph in the Commission on Health Funding (1989) that expressed concern about the quality of management in the health services. It concludes that “consultants who are being asked to make more room for management in

\textsuperscript{354} Ibid
\textsuperscript{355} Ibid
\textsuperscript{356} Ibid
\textsuperscript{357} Ibid
\textsuperscript{358} Ibid p.27
\textsuperscript{359} Review Body on Higher Remuneration in the Public Sector “The Gleeson Report” (1990; 28)
\textsuperscript{360} Ibid
their professional lives are entitled to expect that management input should be of the highest quality.\(^{361}\)

Degree to which Groups’ Preferences are reflected in Outcomes and their Statements on the Outcomes

Private Practice and Clinical Independence

We see from the above that the consultants wished to maintain their right to private practice and demanded compensation for any loss of private income a new scheme might bring about.\(^ {362}\) The Fianna Fáil and Progressive Democrat Government did not have any ideological objection to private practice but agreed with the Social Partners that private practice should be curtailed to a level that would ensure equity.

In relation to private practice, the Gleeson contract included the section from the PESP that rather tentatively suggested that the reforms be introduced gradually and emphasizes the need for sensitivity towards private practice. It states

The Government are committed to maintaining the position of private practice both within and outside the public hospital system...In gradually implementing the new system the Government will be sensitive to the need to ensure that the public hospital system caters adequately for the requirements of private patients.\(^ {363}\)

The Gleeson contract allowed the consultants to opt for two different types of contract that vary in the amount private practice allowed and adjust the salary accordingly. The Gleeson Report (1990; 7) states

A number of the individual consultants who wrote to us suggested in their submissions that such an option should be available to consultants...Some consultants who supported this idea appeared to do so because of the limited extent of their private practice and their wish not to be subject to any abatement of the public salary.

\(^{361}\) Ibid p.30
\(^{362}\) Review Body on Higher Remuneration in the Public Sector “Buckley Report” (1996; iii)
\(^{363}\) Para. 5.16.1 Memorandum of Agreement Consultants’ Contract 1991
With regard to control of private practice, the contract bizarrely, apart from the rather tentative statement above quoted from the PESP, and a commitment to review the effect of the extension of free consultant services had on private practice income, does not refer, at all, to the government policy and subsequent regulations in relation to allocating beds as public or private.

The review of the effect the arrangement had on private income was undertaken by the Buckley Review Body whose terms of reference mandated it to consider:

what effect, if any, changes resulting from the enactment of the Health (Amendment) Act, 1991 and the regulations made thereunder, effective from June 1991, have on the level of private practice of particular specialities.\(^{364}\)

It concluded, “The medical representative bodies failed to provide any worthwhile information about the impact of the abolition of Category III eligibility status on consultants’ private income”.\(^{365}\) They therefore concluded “The lack of evidence before us leads us to conclude that there is no justification for payment of compensation”\(^{366}\)

The relative disinterest with which the consultant side showed to the 1991 introduction of free consultant services for the whole population, is in stark contrast to their reaction to the similar proposal by Corish in 1973-74. Further, when they had the opportunity to seek compensation in the Buckley Review process; they didn’t pursue it with any conviction. Why was the consultants reaction so different this time?

The answer to this question is key to the understanding of the evolution of Irish health system. Hospital care in 1974 was free at the point of consumption for approx. 90% of the population. The approx. 10% of the population that did not qualify for free hospital care could either pay up front or insure themselves with the state-owned VHI. Hospital management had the capacity to restrict private practice to ensure the public patient was

\(^{364}\) Review Body on Higher Remuneration in the Public Sector “Buckley Report” (1996; iii)

\(^{365}\) Ibid p.2

\(^{366}\) Ibid p. 35
treated in a timely fashion. This system, from a patient’s point of view seemed to work reasonably well. There is little complaint in the press or otherwise about waiting lists, although as we saw above the IMA were aware that public patients often received inferior care.

In the intervening years, management, to a very great degree, lost the capacity to control private practice due to the Haughey/Woods contract. Throughout the 1980's, due to spending cutbacks, waiting times for public patients increased. However, private patients could jump the queue, once they were willing and had the ability to pay. The vagueness of the Haughey/Woods contract did not allow management to stop consultants from discriminating on the basis of ability to pay. Crucially, since all consultants were now paid a salary, private practice gave them the opportunity to make “marginal” income by treating a private patient. This gave consultants an incentive to treat private patients, in person and faster than public patients.

In effect, anybody willing-to-pay, was given better and faster access to care. With the increases in waiting times, more and more people felt the need to take out health insurance. By the time free consultant care was offered to everyone in 1991, it didn’t impact on the consultants’ private income because many of those who didn’t have to pay for care were already paying for it so that they would avoid the public waiting list and receive personal consultant service rather than the services of a less qualified doctor.

Hospital care had moved from a system that was free for 90% of the population, with no significant waiting times, to one where the top 10% of income earners no longer had to “pay” for hospital service but where everyone was now effectively charged for timely access to superior quality care. Private consultant income was now largely dependent on their ability to ensure that public patients received inferior care. The Haughey/Woods contract gave the consultants the ability to “price discriminate” between their patients on their ability/willingness to pay. This was identified at the time by the general manager of the VHI, Mr. Tom Ryan, who stated that consultants would experience no decrease in
income as a result of the extension of free consultant care to the whole population because he did not expect any VHI subscribers to "go public" as a result of the new scheme. Consultants in 1991, unlike in 1974, were confident that they would retain their private income.

In relation to clinical independence, the Gleeson contract maintains verbatim the definitions of a consultant and the consultant/patient relationship that are contained in the Haughey/Woods contract. Specifically relating to clinical independence, the Gleeson contract states in Section 6.3

Being a consultant involves taking responsibility in his own name for the diagnosis and treatment of his patients...without supervision of his clinical judgement. This is the essence of clinical independence...Clinical independence derives from the concept of the specific relationship between the patient and doctor in which the patient authorises and trusts the doctor(s) personally involved in his care to make clinical decisions in the patient's best interest and to take continuing responsibility for their consequences...[it] like any freedom, exists only insofar as the limits within which it is exercised are known. These limits include e.g. patient consent, the law and standards of professional conduct and ethics...The contract must, therefore, recognise and expressly protect the right of the patient to the independent judgment of his personal consultant except where appropriately transferred by that consultant

This paragraph on clinical independence makes no reference to the management of scarce resources that Prof. Fielding complained about above, however, Section 6.4, entitled "The nature of the consultant's role and responsibilities" states

To plan and schedule his work the consultant must in the first instance decide what the balance in his practice will be as between emergency and elective clinical work and his teaching research and other work. This is the basis for exercising his right to an appropriate level of resources and facilities to conduct his practice. This plan and estimate of the resources required will be negotiated and agreed between the consultant and employing authority...The exercise of these rights by a consultant carries a corresponding responsibility on the consultant, recognising the finite nature of resources, to operate and manage his practice in a manner which

367 Irish times 2 Feb 1991
makes best use of available resources by scheduling his work and coordinating it with his colleagues...By recognising, the finite nature of resources available to his practice, a consultant does not relinquish his role as advocate on behalf of this patients or patients waiting for consultation or treatment.

This must be the clause Fielding was referring to. It reflects the concerns raised by management that they had no control over the broader hospital system but also addresses the consultants fear that their clinical independence was being eroded. The practical outcome of these principles was to be the agreement of practice plans between management and consultants, but as we see below these proved impossible to negotiate.

A further indication of consultants’ thinking on clinical independence and resources was given by one of the founders of the private Blackrock Clinic, consultant orthopaedic surgeon, James Sheehan. When discussing the involvement of a health insurance company as investors in the clinic who were subsequently bought out. Sheehan stated afterwards that “Health insurers shouldn’t be involved in owning hospitals. They have a conflict of interest. They may end up dictating some aspects of care. I don’t think you should have any third party involved between the doctor and the patient”\footnote{Wren (2003; 69)} This is an interesting insight into the view of one of the nation’s most influential consultants. It shows a belief that the consultant should have an absolute right to determine the treatment of the patient with no reference whatsoever to the entity paying for the care, and consequently, little or no consideration of the broader health or societal implications of using those resources.

In discussing IHCA’s concerns surrounding clinical independence and private practice during the Gleeson negotiations, Dr. Cormac McNamara of the IMO later observed On actual policy issues there was no real difference between the two bodies [IHCA & IMO]...For those relying on the contract, it was essential that the terms were beneficial. For those whose incomes depended on private practice, flexibility to pursue private practice was a core value. It was shrouded with descriptions of threats to professional autonomy of
The ongoing threat to all doctors is less resources. No administration has seriously sought to interfere with professional autonomy (In interview with Wren 2003)

In order to facilitate the public/private designation of beds, the revised Gleeson contract omitted the clause, included in the Haughey/Woods contract that the admission of a patient, public or private, should be on the basis of medical need. Admission was now on the basis of your public/private patient status and whether a bed appropriate to your status was free. This was the Government policy response to ensure an equitable health service. In effect it meant that the Government was ring-fencing beds in a public hospital that a private patient could occupy even if there was a public patient with greater medical need waiting.


This move in the long run will have very damaging effects on our public health service because it condemns it to permanent inferior status...We will now have private waiting lists and public waiting lists. The Minister is institutionalising queue jumping. We will live to regret this move...The Minister is enshrining in our system a permanent separation, a fast lane for those who can afford and a slow lane for those who cannot.\

Bruton was correct. The differential waiting times for public and private patients would become the focus of criticism of the health service to this day. The preference of Government and the social partners for equality would not be met. The consultants needed inequality to ensure their private income. This was confirmed in a study by Nolan and Wiley (2000; 123); where a survey showed that important reasons why people took out health insurance; were access to hospital, getting good treatment and getting consultant care. The survey further showed that “Almost half the insured said they

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369 Dáil Éireann Debate Vol. 409 No. 1, 28 May 1991
personally knew someone who had recently had a lengthy wait for public hospital treatment”.

The Minister of Health Rory O’Hanlon in a Dáil debate on the issue of controlling the public/private split states that the decision must always remain with the consultant on who to admit and indicates the connection between clinical independence, private practice and management. He said

Clinical independence of the doctor is obviously very important but, if you apply that to its logical end, the consultant decides what patient goes in, how long the patient stays, what procedures are adopted for the patient. Effectively they are managing.370

The obvious conclusion of the above was that consultants must become involved in management to ensure the public/private split was observed and ensure the efficient allocation of resources. However, as Wren (2003; 170) states private practice benefitted “from the failure to implement and police the system of bed designation introduced in 1991”. A Department of Health working group found that the public/private bed designation “had not held to that level of mix in some key areas affecting equity of access.” Elective admissions were a key area of waiting list inequality, as they are generally the type of non-emergency, non-chronic conditions that suit private practice so well. For example, in 1999 and 2000, 29% of elective admissions to public hospitals were private patients. This figure increased to 31% in 2001. Wren (2003; 170)

The Consultant/Management Relationship

The revised contract in line with the Gleeson report provided for the introduction of individual job descriptions, the scheduling of consultants’ work commitments, the development of reviewable practice plans, information sharing, medical audit, clinical coordinator posts, and clinical management structures.

370 Interview with Rory O’Hanlon conducted by Wren (2003,90)

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Paragraph 6.2 of the revised contract states that consultants’ responsibilities in relation to management include “agreement of your practice plan...to determine the resources and facilities required to conduct the practice...discussing and agreeing a job description...scheduling of your work consistent with the scheduling of the resources of the hospital...supplying to the (employing authority), such information on the discharge of your...sessions...to establish that you are fulfilling your contractual commitment...participating in medical audit and providing information...for hospital information systems and service planning...as the (employing authority) and you agree are appropriate” The memorandum of agreement of the contract provided further detail on each element.

The revised contract itself, allied with the Health (Amendment) Act 1991, would appear, at first glance to be a significant reflection of the Government, opposition, and Social Partners preferences, however, the Buckley Review Body, five years later, stated with regard to management structures “We were dismayed at the lack of progress in this regard over the past five years”. It further adds in bold type, “We found no evidence that the Department of Health is leading and shaping a change programme designed to implement such structures and processes in a predictable and consistent manner throughout the health services within a defined timescale." (Buckley Report 1996; 5) Consultants, it finds, are “at best, ambiguous about their involvement in management. Their responsibilities in terms of delivering a patient driven service must be faced up to without delay. They must function as team members, rather than as independent practitioners”

In August 1992, the Department of Health in conjunction with the IMO (The IHCA didn’t take part, displaying their lack of interest in management), and in line with the recommendations of the Gleeson Report, launched a pilot programme at four major hospitals, as a lead-in to the greater involvement of consultants in management.

372 Ibid
373 Irish times 12 Aug. 1992
The Buckley Review Body, reporting in relation to this programme, states that "we are utterly dismayed at the lack of progress to date in implementing even the broad trust of the changes recommended over five years ago." It was critical that just four pilot sites had been selected by the Department of Health to develop and evaluate models of clinical involvement in hospital management; and that these pilots appeared to have been set up without benchmark, timescale or success criteria. It further states that it took prolonged negotiations to appoint clinical coordinators; with only 3 being appointed by the time of the review.

It also stated that progress on practice plans had been minimal and that there was no indication of a co-ordinated approach to medical audit. It concludes in relation to practice plans

Wren (2003; 93) notes George McNiece of the IMO stated that the practice plans "were allowed to die quietly by the management side" because if consultants produced plans, they could itemise their requirements for beds and staff and "management would have to fund all those, so management never wanted to pursue them". However, the clinical independence clause in the contract included a clause which states "By recognising, the finite nature of resources available to his practice, a consultant does not relinquish his role as advocate on behalf of this patients or patients waiting for consultation or

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374 Review Body on Higher Remuneration in the Public Sector “Buckley Report” (1996; 8)
Why did the consultant body relinquish this role as advocate for the patient? Why did they effectively collude with management in allowing practice plans to die quietly? The answer lies in the fact that if consultants publicly raised the issue it would draw attention to the level of resources being used for private care. It was not in the interest of consultants to raise the issue or become involved in management. Further in relation to the lack of implementation of the various aspects of the contract, the staff I interviewed from the Department of Health stated that each reform was stymied by the consultant organisations ensuring the negotiations of each implementation took an excessively long time.

**Period 4 Analysis**

During the lead-in time to the negotiation of the Gleeson contract, we see that there is cross-party criticism of the consultants' employment conditions. The Government, along with the "social partners" appear to blindside the consultants when they introduce a policy designating beds as "public" or "private" and give free consultant care to the entire population. The consultants effectively express mild annoyance with these developments and finish off negotiating the new contract. The contract on first reading would appear to be a diminution of the consultants influence. However, when it comes to implementation of the contract the consultants largely carried on as they had before. The management side shows that they are incapable of developing any process to get the consultants to meet their contractual needs. The "practice plans" become bogged down in industrial relations problems and the "clinical directorate" pilot scheme is subjected to such protracted negotiations on the terms of the clinical directors as to render it unworkable.

In this period, despite cross-party and social partnership opposition, the consultants exert enough influence to ensure that their private practice levels are not affected and they retain their freedom from management control. We see that the Buckley report finds that the introduction of free consultant care had no impact on their private income. The

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376 Para. 6.4.6 Consultant contract 1991
management side shows that it has insufficient influence, capacity and resources to implement key elements of the contract. The consultants again show a strong form of influence in this period.
6.3.1.5 Period 5 – 1992-1997

Timeline

As we saw above, The Health (Amendment) Act 1991, and subsequent regulations provided for hospitals to designate their beds as public or private subject to ministerial approval. The public/private split, as it became known, has since then, been set as an 80:20 split between public and private beds. This split was Government’s attempt to control access to beds and to ensure public patients were not discriminated against. The regular breeching of this split by Consultants was to become a disputed issue between the consultants and hospital management.

The PD/FF coalition Government foundered on foot of revelations in the Beef Tribunal Report, in December 1992. A general election returned a Fianna Fáil/Labour coalition. Labour TD, Brendan Howlin was appointed Minister for Health. This Government fell in November 1994 due to the Fr. Brendan Smith affair and was replaced, without an election, by a “Rainbow Coalition” of Fine Gael, Labour and the Democratic Left. Michael Noonan was appointed Minister for Health. He initiated a second specific report on Hospital Consultants from *The Review Body on Higher Remuneration in the Public Sector* in March 1995. The Review Body was now under the Chairmanship of Michael Buckley. It reported in January 1996. The contract negotiations between the Department of Health and the consultant representative bodies commenced in March 1997.

Brian Cowan was appointed as Minister of Health after the election of a Fianna Fáil/PD coalition in June 1997. A draft contract was agreed in late September 1997. The consultants voted in favour of the contract in November 1997. The negotiations for the Buckley contract attracted the least amount of attention of all the contract negotiations.

The Actors’ Preferences; Their Attempts to Influence Policy and Their Interaction with Decision-Makers

Private Practice and Clinical Independence
Brendan Howlin as the successor Labour party Health Minister to Barry Desmond and Brendan Corish, accepted the mixed public/private health system, in the first ever Irish Health Strategy “Shaping a Healthier Future” in 1994. Here, the Government committed to “maintaining the position of private practice in the well-established public/private mix.” However, it further stated that “…it is important to ensure that the co-existence of public and private practice does not undermine the principle of equitable access”.

The Department of Health indicated to the Buckley Review Body that its “primary concern in relation to consultants’ on-site private practices was to ensure that they were not undertaken at the expense of, or to the neglect of, their commitments to public patients”. The Department believed that controlling the number of private beds and ensuring that long waiting times in public hospitals were not used to generate private practice was the best means of ensuring an equitable health system. The consultants expressed no desire to move away from their right to private practice. The Buckley Report showed that only 90 out of the 1,045 consultants employed in the state did not engage in private practice. Clinical independence did not arise as a major issue in the Buckley negotiations.

The Consultant/Management Relationship

The Government set out its preferences in the Health Strategy “Shaping a Healthier Future” stating “The organisational and management structures, which are now in place for almost a quarter of a century, need to be updated to provide for more effective decision-making and accountability”. It also states “Many of the services are not sufficiently focused towards specific goals or targets, and it is therefore difficult to assess their effectiveness; the information which would support this focusing is frequently unavailable or, if available, under-utilised.”

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377 Shaping a Healthier Future Dept. of Health (1994; 36-37)
378 Ibid
380 Ibid p.19
381 Shaping a Healthier Future Dept. of Health (1994; 10)
Earlier, in June 1993, “Medical Manpower in Acute Hospitals” (The Tierney Report) was published. It found that

Medical services in hospitals are provided, to a large extent, by NCHDs who by definition, are not fully trained. The bulk of emergency work is carried out by NCHDs, under supervision of consultants but this can be of a nominal type. In a situation where there are two doctors in training for every fully trained doctor, there is likely to be a dilution in the senior medical input into the decision-making process. We are of the view that among the consequences of this situation are unnecessary tests being ordered, excessive recall of patients to outpatient clinics, inappropriate admission decisions and durations of stay which are unduly lengthy.  

The report found “There is a serious and growing imbalance between the high number of NCHD posts and those at consultant level. The significant growth in consultant manpower over the past two decades has, under the present system, been accompanied by an even greater growth in NCHD numbers aggravating rather than ameliorating the imbalance.” It concluded that “implicit in our recommendations is a requirement by consultants and also NCHDs to adopt significantly changed work patterns. We realise that their willingness to do so will be a key component in bringing about a changed system.” In an interview, one of the members of the health management negotiation team for the Buckley contract stated that they had evidence that consultants were at least to some degree allowing NCHDs to fill a void while they concentrated on their private practice.

As we saw above, the Buckley Review Body was dismayed with the lack of progress towards a satisfactory management relationship. It recommended a detailed structure of management for all hospitals and stated that a programme of implementation should be drawn up before the end of 1996, “so that the revised structures can be put in place during

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382 Medical Manpower in Acute Hospitals “The Tierney Report” (1993; 12)  
383 Ibid p. 11  
384 Ibid p. 6
1997” (1996; 11). It also states that “There should be suitable levels of salary recognition for consultants who are prepared to take on the management roles outlined.”

Degree to which Groups’ Preferences are reflected in Outcomes and their Statements on the Outcomes

Private Practice and Clinical Independence

The private practice section in the Buckley contract documents is more explicit in its commitment to the principle of equitable access, than the Gleeson contract, where it wasn’t referred to at all, but, the clauses still remain quite vague. The introductory paragraph on private practice in the memorandum of agreement states

The Government has consistently affirmed its commitment to the availability of a mix of public and private care within the Irish health system. Most recently, this has been restated in the Health Strategy, Shaping a Healthier Future (1994). The Health Strategy also states that “it is important to ensure that the co-existence of public and private practice does not undermine the principle of equitable access”

Further the section dealing with private practice explicitly refers to section 6 of the contract that deals with the scheduling and organisation of consultants’ work. It states in relation to off-site practice that the clauses in section 6 are “designed to demonstrate clearly that any entitlement to off-site private practice does not result in a reduction of contracted service to public sector patients whether public or private”. In relation to on-site practice, it states “a consultant’s overall proportion of private to public patients should reflect the ratio of public to private stay beds designated under the 1991 Health (Amendment) Act.”

With regard to clinical independence, the Buckley contract maintains verbatim the definitions of a consultant and the consultant/patient relationship that was included in

386 Para 2.9.1 Memo of Agreement - Consultant Contract 1997 “Buckley Contract”
387 Para 2.9.2 Memo of Agreement - Consultant Contract 1997 “Buckley Contract”
388 Para 2.9.3 Memo of Agreement - Consultant Contract 1997 “Buckley Contract”
both the Gleeson and Haughey/Woods contract. The definition of clinical independence also remains the same and the details regarding the connection between clinical independence and duties change little.

The Brennan Report (2003; 65) found that the vagueness of the private practice accountability mechanisms in the contract and the interpretation of clinical independence was a key problem in creating a viable management system.

The major obstacle experienced to date in creating a financial planning, management and control model to 'fit' services provided by clinical consultants appears to have been the interpretation put on clinical independence of consultants...In the absence of agreed mechanisms for planning and managing resources, attempts to introduce cost reductions or to increase efficiency may be met with resistance because they are perceived to interfere with the clinical autonomy of Consultants. Clinical independence or autonomy appears to be the distinctive feature of general hospital services which has defeated the application of conventional financial and management accounting systems to hospital expenditure in the past.

As we saw above, the Gleeson Report had found that private clinics generally had little problem in implementing management controls without running into the problem of clinical independence at every juncture. Brennan further stated that "the wording in the contract relating to consultants' responsibilities for resource management to be somewhat vague and lacking in explicit detail". The report then cites the two parts of Section 6 relating to clinical independence and resource management which state (Sn 6.2(v) & (ix)) that the consultant is responsible for:

(v) agreeing with management the details of the service levels and mix to be provided within the scheduled commitment

(ix) providing information to (the employing authority) including data for hospital information systems and service planning and for such other purposes as (the employing authority) and you agree are appropriate
What is critical to note here, is that the Buckley contract repeats the same wording "as (the employing authority) and you agree are appropriate" that had proved to be unworkable in relation to management that the Haughey/Woods contract had used.

Brennan (2003; 66) unsurprisingly concluded that the Buckley contract "as it currently stands" had inherent weaknesses that impeded proper financial accountability by clinicians and that the major reasons for this lack of accountability were that; the consultants were not required to account for the resources they used during the course of their work; that existing arrangements that allowed consultants to engage in both public and private work in public hospitals made it difficult to allocate costs and that the ability of consultants to engage in private work reduced the time available to engage in management.

We see here that due to the vague wording of the contract in relation to the consultants’ responsibilities for resource management and the interpretation of clinical independence; consultants are able to fend off any responsibility in relation to resource management by citing clinical independence.

**The Consultant/Management Relationship**

As noted above, the Buckley contract maintained the same definition of the consultant and the nature of the consultant/patient relationship as the previous contracts. The Buckley contract documents state "Consultants need to be involved in the management process" and then specifies that the management structure of "Each hospital or hospital grouping will have an Executive Management Board...It is equally necessary that sub-Board structures be put in place to assist the management process". It further states that the pilot projects confirmed that the Clinical Directorate model represented "an effective model to facilitate the participation of Hospital Consultants in the management of..."
process." In order to assure the consultants that the clinical directors would have power, the CEOs of each Health Board agreed the following statement,

The exercise of my powers, as Chief Executive Officer, under section 14(3) of the Health Act, 1970, in respect of your contract of appointment as consultant under this health board, will be in accordance with the terms of the contract.

As we can see from this statement the CEOs fetter their power granted by the Oireachtas, to receive in return the rather weak and pleading statement that “consultants need to be involved in the management process”. The contract sets out a broad structure of hospital management but nowhere does it set out the precise responsibilities of the consultant in management. The contract again agrees a weak form of management aspiration where it states

It is agreed that (the employing authority) and the Consultants will work together, and will have support from the Department of Health and Children, in identifying the most suitable management models for implementation in individual hospitals/hospital groupings.

As we saw above the Brennan Report (2003) found that the particular interpretation of clinical independence had defeated all previous attempts to implement workable management structures.

The Value for Money Audit of the Irish Health System (The Deloitte Report) (2001; 171) also states,

A key point to note within the organisation structure of the health system is the predominant absence of clinical staff, in particular consultants, from any formal reporting structures. This is central to why the clinicians in management initiatives are being promoted by The Department of Health and Children...The current contract does provide for Consultant in Management. However, the phrasing of the contract is quite loose.

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391 Appendix F Consultant Contract 1997 “Buckley Contract”
It further states (2001; 179) “The Consultants’ Contract is flawed in terms of managing time input, public/private mix and specificity with respect to CIM and clinical governance”. We see from the above that consultants were again not taking their role in management seriously.

An example of the consultant/management relationship can be gleaned from Wren’s (2003; 163) examination of the limited industrial action taken by nurses in 2002. The nurses wished to draw attention to overcrowding and excessive workloads in hospital A&E departments. A&E departments were always a point of conflict between consultants and hospital management due to the unpredictable demand for resources. Consultants who wanted to reserve hospital beds for private elective surgery had often been accused of keeping their patients unnecessarily in a bed until they had a new elective patient to fill it. To leave a bed empty risked losing it to an overburdened A&E department. Consequently, consultants were often accused of “bed blocking”. The INO during the dispute sought the appointment of a bed manager who would have the power to cancel non-emergency elective surgery if overcrowding was occurring and to insist consultants undertook ward rounds so that patients could be discharged promptly and efficiently.  

The IHCA insisted that the consultant had full clinical responsibility, and further stated “We cannot accept that any consultant be obliged to undertake ward rounds at any time other than a time of their own choosing”. Wren (2003; 163) states “How then was anyone – nurse, accountant, or medical colleague – to manage an Irish hospital?” A Comhairle na nOspidéal report on A&E resources published soon after the dispute supported the nurses’ viewpoint. It discussed “the need of consultants to delay discharging their patients in order to ensure bed availability for their incoming patients”.

Period 5 Analysis

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393 Wren (2003; 163)  
394 Comhairle na nOspidéal (2002; 84)
During this period we see that the reforms envisaged by the Gleeson report and contract are not implemented. The IHCA doesn’t even involve itself in the “clinical directorate” pilot scheme and when it comes to negotiating the terms and conditions of employment of the directors; they take an inordinately long-time. The practice plans become bogged down in industrial relations issues. A Labour Health Minister for the first time makes no attempt nor expresses any desire to tackle private medicine.

When it comes to negotiating the new contract, much of the phrasing that had previously proved to be inadequate, is repeated. We see from the quote from the Deloitte Report that the consultants again do not take their role in management seriously and consequently, there is no advance in any effective control of consultant behaviour. In an interview in 2003, after the release of the *Report of the Commission on Financial Management and Control Systems in the Health Service*, the Chairman of the Commission, Professor Niamh Brennan stated that she “could not believe that such a contract of employment could exist”. Again we see that consultants exert considerable influence over their employment conditions while the management side are incapable of bringing about the implementation of many control aspects of the contract.
6.3.1.6 Period 6 – 1997 - 2008

Timeline

The economic growth of the 1990's had increased the population and consequently the pressure on the health service. Waiting lists were at an all-time high. Spending in the health service had increased from €2.6bn in 1993 to €7.9bn in 2002 to €15.5bn in 2008.\(^{395}\) It increasingly became an issue on the public’s mind. This was the backdrop to the appointment of Micheál Martin as the successor to Cowan. The health service was under severe pressure in 2002. The topicality of health was reflected in the May 2002 election, when as Wren (2003; 299) notes “the deterioration of the health services, the length of waiting lists and the state of emergency hospital services had registered in opinion polls.” She further notes (2004; 2)

> Spending increases were channelled into an unreformed public hospital network, which is over-reliant on highly paid junior doctors; on which average consultants’ incomes exceed specialist incomes in other Northern European countries; and in which there are incentives to maximise treatment of insured patients while rationing care to the uninsured.

An indication of the increased attention and dissatisfaction in the health service was the commissioning of a plethora of reports. In the last years of the old millennium and the first of the new, no less than seven major documents were commissioned and reported on various aspects of the health service. The reports were: The Forum on Medical Manpower; The Report on the Working hours of NCHDs (Hanly I); The Deloitte Report; Quality and Fairness; The Brennan Report; The Report on Medical Staffing (Hanly II) and The Prospectus Report. All of them to a greater or lesser degree pointed to the consultants’ contract as being the major obstacle to the reform of the healthcare system.

The main conclusions of the reports were as follows

1. The problems of the health service were fundamentally structural

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\(^{395}\) Central Statistics Office www.cso.ie
2. Consultant work patterns did not meet the needs of patients or allow management the ability to run a cost effective service
3. The health service was inefficient and could achieve better outcomes
4. Consultants were absent from public hospitals at key times
5. Consultants were not subject to effective management from a non-clinical perspective
6. There was an excessive number of NCHDs employed in the health service and there was excessive delegation to NCHDs
7. Consultants needed to better balance their practice between emergency and elective, teaching, research etc.
8. Consultants needed to work as a part of multidisciplinary teams
9. There was ineffective restriction of the public/private mix of patients
10. Cost control in the health service was ineffective
11. A major obstacle to reform was the consultants’ interpretation of clinical independence

Central to the Government’s policy was the second Health Strategy “Quality and Fairness”, which was published in 2001. It called for a “public only”\textsuperscript{396} contract for consultants. The Brennan Report, published in January 2003, also recommended such contract.\textsuperscript{397}

A cabinet reshuffle in September 2004 saw the Tánaiste and leader of the Progressive Democrats, Mary Harney appointed as Minister for Health. In August 2005, she wrote to both medical representative bodies formally inviting them to enter contract negotiations\textsuperscript{398}, under the chairmanship of Mark Connaughton SC.\textsuperscript{399} The first round of talks occurred between November and January of 2005-6.\textsuperscript{400} They collapsed when the consultants found out that the HSE was no longer issuing the type of consultant contracts that allowed “off-site” practice.\textsuperscript{401} The talks resumed in November 2006.\textsuperscript{402} Harney placed a deadline on the talks March 2007 when she stated, she would advertise consultant posts with a contract that was not agreed with the consultant representative

\textsuperscript{396} Quality and Fairness – A Health System for You Dept, of Health (2001; 107)
\textsuperscript{397} Commission on Financial Management & Control Systems in the Health Service “The Brennan Report” (2003; 67)
\textsuperscript{398} Irish Times 7 Sep. 2005
\textsuperscript{399} Ibid 15 Sep. 2005
\textsuperscript{401} Ibid 7 Feb. 2006
\textsuperscript{402} Ibid 6 Nov. 2006
bodies if they had not agreed one by then.\textsuperscript{403} The talks continued until April when Harney announced she was going to advertise the threatened posts.\textsuperscript{404}

A general election in May 2007 resulted in the return of the existing PD/FF coalition government with the Green Party as an additional coalition partner. Harney was re-appointed as Minister. The talks resumed in September 2007 with a draft contract being presented to the consultant side.\textsuperscript{405} Both the IMO ad IHCA rejected it.\textsuperscript{406} The talks continued until January 2008 with agreement reached.\textsuperscript{407} Due to further wrangling, a final written draft of the contract had not been sent to consultant representative bodies by mid-March 2008.\textsuperscript{408} The draft contract however was delivered to the consultants on 27 March.\textsuperscript{409} Further negotiations saw both the IHCA and IMO ballot their membership. Both groups voted in favour of the contract.\textsuperscript{410} Consultants were given until 31 August to decide whether to switch to the new contract.

**The Actors' Preferences; Their Attempts to Influence Policy and Their Interaction with Decision-Makers**

**Private Practice and Clinical Independence**

The second Government Health Strategy, Quality and Fairness (2001; 43) stated

One of the key concerns of the Health Strategy is to promote fair access to services, based on objectively assessed need, rather than on any other factor such as whether the patient is attending on a public or private basis.

It continues\textsuperscript{411}

\textsuperscript{403} Irish Times 21 Jan. 2007
\textsuperscript{404} Ibid 14 Apr. 2007
\textsuperscript{405} Ibid 4 Sep. 2007
\textsuperscript{406} Ibid 19 Sep. 2007
\textsuperscript{407} Ibid 25 Jan 2008
\textsuperscript{408} Ibid 14 Mar. 2008
\textsuperscript{409} Ibid 28 Mar. 2008
\textsuperscript{410} Ibid 17 May & 4 Jun. 2008
\textsuperscript{411} Quality and Fairness – A Health System for You Dept. of Health (2001; 107)
The terms of the common contract for hospital consultants are central to the establishment of an appropriate balance between public and private care in public hospitals...In particular, it will be proposed that newly-appointed consultants would work exclusively for public patients for a specified number of years.

Finbar Fitzpatrick of the IHCA stated in relation to the proposal

We will use all of our influence to make sure nobody takes it and it doesn’t become a reality.\textsuperscript{412}

Fitzpatrick had also “confidently predicted”\textsuperscript{413} that the consultants would block these Government plans. The Brennan Report\textsuperscript{414} stated in relation to public practice that,

Existing arrangements, which enable medical consultants to combine their public hospital commitment with private practice, are inherently unsatisfactory from a management and control perspective. To address this we recommend that all new public consultant appointments be on the basis of a commitment to work exclusively in the public sector

The consultants’ key means of ensuring that the “public only” contract did not come to fruition was simply not to agree to it. The lead-in time to the start of the contract talks was particularly long and then when the talks begun the consultants were perceived to be dragging their heels at any opportunity. As the Sunday Business Post\textsuperscript{415} pointed out

The consultants employed successive wheezes to delay the glacial progress of first the talks about talks and finally the talks themselves

In the talks the consultants, simply wore down the government side. When the talks began in November 2005, the Government’s position was firmly that they would only offer a “public only” contract. This was reiterated when they presented a discussion

\textsuperscript{412} Wren (2003; 257)
\textsuperscript{413} Wren (2003; 271)
\textsuperscript{414} Commission on Financial Management & Control Systems in the Health Service “The Brennan Report” (2003; 9)
\textsuperscript{415} Sunday Business Post 22 Apr 2007
When the talks resumed in November 2006, following the impasse due to a withdrawal of the category II contracts by the HSE, Harney had accepted that the public only contract approach was not appropriate. At a meeting of the Oireachtas Health Committee on 28 September, she said that she now accepted that the public only contract was not sufficient; “We will probably need a variety of options”. The Irish Times noted in early October.

Last January the Minister for Health Mary Harney was playing hard ball with the consultants... However, in recent days and weeks, the head of the HSE, Prof Brendan Drumm and Harney have begun adopting a more conciliatory tone and were intimating that a breakthrough was on the horizon.

The management side now offered two different types of contract; one “public only” contract and a second that allowed a limited private work in a public hospital. By September 2007, the management side offered existing consultants transitional rights to continue working in off-site hospitals. The consultants were still not happy with this and in February 2008, management agreed to offer a contract that allowed consultants work “off-site”. Harney wanted consultants to work on a shift basis over a 24-hour period, 7 days a week. The contract agreed that consultants should work between 8am and 8 pm with an agreement to do 5 hours on Saturdays. The management side wanted the contract priced by The Review Body on Higher Remuneration in the Public Sector. The consultants wanted it priced at the negotiations. It was priced at the negotiations.

416 Irish Times 26 Jan. 2006
417 Ibid 7 Feb 2006
418 Oireachtas Joint Committee on Health and Children Debate 28 Sep. 2006
419 Irish Times 3 Oct. 2006
420 Irish Times 17, 18, & 19 Sep. 2007
421 Ibid 2 Feb. 2008
422 Mary Harney Speech to IHCA AGM 8 Oct. 2005
423 Section 7 Consultant Contract 2008
424 Irish Times 27 Jan 2006
425 Irish Times 24 Jan 2008
With regard to clinical independence, as we saw above, the Brennan Report found that the interpretation of clinical independence was a key problem in creating a proper management system.\textsuperscript{426} It further found that consultants had "a conflict of interest" in that their ability to pursue their private practice conflicted with their public work. Simply, the incentive structure of private as opposed to public treatment reduced the commitment consultants were willing to give to the public patient, management and teaching.\textsuperscript{427}

The Consultant/Management Relationship

The Deloitte Report\textsuperscript{428} states

A key point to note within the organisation structure of the health system is the predominant absence of clinical staff particularly consultants, from any formal reporting structures

It also found that the hopes for an agreed management structure set out in the Buckley contract were not realised due to the "loose" phrasing of the contract.

It further states that the contract was "flawed in terms of managing the consultants time input, public/private mix".\textsuperscript{429} and it goes on to recommend the contract's renegotiation particularly in relation to working patterns meeting clinical needs and updating of skills to include governance and clinical audit.\textsuperscript{430}

The Brennan Report\textsuperscript{431} recognized (2003; 6)

\textsuperscript{426} Commission on Financial Management & Control Systems in the Health Service "The Brennan Report" (2003; 65)
\textsuperscript{427} Commission on Financial Management & Control Systems in the Health Service "The Brennan Report" (2003; 71)
\textsuperscript{428} The Value for Money Audit of the Irish Health System "The Deloitte Report" (2001; 171)
\textsuperscript{429} The Value for Money Audit of the Irish Health System "The Deloitte Report" (2001; 179)
\textsuperscript{430} Ibid p. 182
\textsuperscript{431} Commission on Financial Management & Control Systems in the Health Service "The Brennan Report" (2003; 6)
In our view many of the problems are fundamentally structural. They relate to how the system is organised and managed. We believe that just improving the systems of financial management and control will do little to improve efficiency and health expenditure unless there is fundamental reform of how the system is organised and managed. For this reason we have recommended very substantial changes to the way the system is structured and managed.

It finds “Those who make decisions (mainly Consultants and other medical practitioners) which commit resources are not accountable for that expenditure and the outputs to be delivered”\(^{432}\) and concludes \(^{433}\)

The accountability for managing resources and for financial control should be devolved to those persons with the authority to commit or expend resources. Such persons should be accountable for how those resources are used.

It further finds “The collection and interpretation of primary source data about patients is not done by the professionals who prescribe the services or drugs” and “The absence of this basic information on a systematic basis leads us to conclude that the health service is under-managed despite the popular perception that it is over organised, over administered and bureaucratic”. \(^{434}\)

Brennan recommends\(^{435}\) the review of the existing common contract in relation to management “to ensure that the following principles are explicitly reflected in the contract

- Formal recognition and agreement by Consultants, as the key decision makers, of their responsibility to manage resources to which they are entitled to conduct their practice within agreed budgets at department, specialty and individual Consultant level
- Participation in arrangements for collective representation of Consultants at hospital management committee level

\(^{432}\) Ibid p. 7
\(^{433}\) Ibid p. 9
\(^{434}\) Ibid p. 28
\(^{435}\) Ibid p. 9
• Agreement of core hours of attendance
• Active management and optimization by Consultants of resource allocation against agreed practice, specialty and department Service Plans and budgets”

Degree to which Groups’ Preferences are reflected in Outcomes and their Statements on the Outcomes

Private Practice and Clinical Independence

As we saw above, the Government moved considerably from its original position of a public only contract to accepting, a position where there was hardly any change in the type of contracts offered. However, where we do see change is in the level of detail the new contract delineates the consultants’ private practice rights.

Section 20 of the Connaughton Contract, “Regulation of private practice” is significantly different from the previous contracts. The contract for the first time explicitly states the ratio of public/private mix that should govern the level of private practice. It states “The volume of private practice may not exceed 20% of the Consultant’s workload in any of his or her clinical activities, including in-patient, day patient and out-patient”\(^\text{436}\). It further explicitly states that this level will be determined “through the medium of the Casemix system”\(^\text{437}\). It also states that the ratio

\[ \text{...will be implemented through the Clinical Directorate structure. The Employer has full authority to take all necessary steps to ensure that for each element of a Consultant’s practice, s(he) shall not exceed the agreed ratio}\] \(^\text{438}\)

It further states that if a consultant's practice is in excess of the ratio after been given time to adjust, “(s)he will be required to remit private practice fees in excess of this ratio to a research and study fund under the control of the Clinical Director”\(^\text{439}\)

\(^{436}\) Consultants’ Contract 2008 Section 20(b)
\(^{437}\) Consultants’ Contract 2008 Section 20(c)
\(^{438}\) Ibid Section 20(d)
\(^{439}\) Ibid Section 20(e)
A recent newspaper report\textsuperscript{440} states in relation to consultants exceeding the public/private ratio that

Just one hospital consultant has paid money that was owed to the health service since the new 2008 contract was introduced...Official data shows that almost 40\% of inpatients treated at some public hospitals were classified as private patient.

We see from the above, that under the contract, the Clinical Directorate is responsible for implementing the ratio. This Clinical Director who must be a consultant is “accountable for resources used, directly and indirectly, by the directorate”\textsuperscript{441}. We see from the above that despite being responsible for managing the resources the Consultant Clinical Director is not adhering to the contract.

In relation to clinical independence, for the first time, the contract states that Consultants may discharge their responsibilities to the patient through a shared responsibility with other consultants and states

The Consultant will generally work as part of a Consultant team. The primary purpose of Consultant teams is to ensure Consultant provided services to patients on a frequent and continuing basis. In effect this requires that the consultant provides diagnosis, treatment, and care to patients under the care of other Consultants on his/her Consultant team and vice versa. This may include discharge and further treatment arrangements as appropriate\textsuperscript{442}.

The consultant is no longer an individual practitioner who has the sole control over his/her patients and the beds his/her patients are lying in. This clause effectively reduces individual consultant’s ability to control beds for their own private patients.

**The Consultant/Management Relationship**

\textsuperscript{440} Sunday Business Post 28 Sep. 2014
\textsuperscript{441} Consultants’ Contract 2008 Appendix IV “Clinical Director Profile” para. 6
\textsuperscript{442} Consultants’ Contract 2008 Section 10 (f)
The management relationship features prominently in the "Core Principles" of the Connaughton contract as set out in Section (1). The second core principle is the

Recognition of the importance of the role of Clinical Director, which places Consultants within the leadership structure in management of the health service

While the fourth core principle is the

Recognition by the Consultants that (s)he must operate within the system in which policy and procedures are determined through the corporate entity in which staff at all levels must be accountable

Section 6 of the Contract deals with the "Reporting Relationship" and states that the Consultant reporting relationship and accountability is to the relevant hospital management through his/her Clinical Director. Section 4 & 6 of the "Clinical Director Profile states that

4. Executive power, authority and accountability for planning and developing services for and managing available resources (direct and indirect) by the Clinical Directorate are delegated from the Employer

6. The Clinical Director is accountable for resources used, directly and indirectly, by the Directorate and the transformation of these resource inputs into pre-planned and commensurate levels of service output in line with clinical need and as defined in patient service or other relevant terms and agreed with the Employer

We see here for the first time the consultant body is responsible for the management of resources and the delivery of service within those finite agreed level of resources. However, as we saw above, like all previous contracts it is essential for the consultants to actually engage in fulfilling their contract requirements.

**Period 6 Analysis**
During this period consultants retain their impressive amount of influence. In the period over the decade of 2000’s as their position attracted more and more adverse attention, they appear to come under pressure; however to the present day they still retain the ability to largely determine the structure of the Irish Health system without a serious challenge to their hegemony.

The Government Health Strategy (2001) stated that the Government wished to introduce a “public only” contract. The consultants state that they are opposed to such a move. They delay the start of the contract negotiations with various side issues, such as changes to disciplinary procedures, medical indemnity, and “patient advocacy”. At the start of the talks in autumn 2005 Mary Harney stated, “I want to see change and flexibility...We want to see a seven-day 24-hour consultant-led service, with fewer junior doctors and consultants working in teams”\textsuperscript{443}. However, the consultants had a different view with the Chairman of the IHCA’s contract negotiating team P.J. Breen saying that the idea that consultants were going to completely renegotiate their current contract was not on.\textsuperscript{444}

The Government is clear at the onset of the negotiations that they want a public only contract, that it will be priced by the Review Body, that consultants will work on a shift basis providing 24/7 cover, and the consultants will be paid on a salary only basis. The HSE suspends the issuance the category II contract. We see a short time later that the Government capitulates on all these positions. We further see that when Harney threatens and subsequently advertises positions without agreement, the consultants are comfortable in ignoring the threat.

However, the government does make some small headway; it increases the number of hours the consultant must work; it gets the consultants to agree to work in a team, and they reach agreement on the consultants doing some weekend work. In return the consultants were awarded sizeable increases in salary.

\begin{flushright}
\textsuperscript{443} Irishhealth.com 9 Oct. 2005 \\
\textsuperscript{444} Ibid
\end{flushright}
Mr. Gerard Barry, head of the management side negotiation team, said towards the end of the negotiations that management had gone as far as it could with regard to the new contract without making it virtually indistinguishable from the old contract. The radical reform of the health system sought by Government was not going to happen. The consultants again exert considerable influence over outcomes in the health system.

6.3.2 Case Study Summary of Influence

We see throughout the period that the consultants exert substantial influence over, not only, their employment conditions but over the whole hospital system. The consultants to an extensive degree have designed the health system to meet their needs. They show that they are determined to protect their private practice earnings and it remains to this day the defining feature of the Irish Health system. Prof Brendan Drumm, the first Chief Executive of the HSE and a consultant pediatrician himself, stated (2011; 3)

The problem was that services were more often than not provided in a way that primarily facilitated us professionals who provided the service rather than the patient

In assessing the influence of the hospital consultants, we see from the Mother and Child Scheme in the late 1940’s to the Fitzgerald Report in 1968 until the present day that they are able to strongly influence outcomes in the health system.

A theme that runs throughout this case study is that the consultants dominate the health system to a greater degree than might other be the case because the capability and influence of the Irish political and health system management is inadequate. As Condon notes, the government made strategic errors in 1973-4. Further, no one in the Department of Health or the broader political system seemed capable of stopping Haughey and Woods from giving the consultants practically everything they wanted. While Barry

445 Irish Times 18 Apr. 2008
Desmond aggravated and stalled the consultants, he wasn’t able to advance his wish to reform the health system. The Gleeson contract appeared to be a success for the government side but the consultants didn’t cooperate with implementing the contract and management seemed incapable of moving it forward. This system prevailed until the issue started to register in the public mind outside the subsystem. Even then the consultants were able to face down the government and public opinion and achieve a contract that is still largely the one they sought.

In summary the consultants are able to determine outcomes across a health system that spends approximately 10% of the nation’s income each year. Further they are able to maintain that influence over a long period of time and in the face of broad political opposition. Answering the question “do differences in influence explain variation in policy outcome over time” we can conclude that the consultants maintain a high level of influence over outcomes in relation to their contract. The influence of government and management is limited over the course of the case study. It varies to a large degree according to the interest and stance of the Minister of Health. Charles Haughey and Micheal Woods allowed the consultants an open goal in their negotiations, while Barry Desmond and Mary Harney were able to make to varying degrees an impact on the consultants working conditions. From the evidence of the case study, we can see that variations in influence explain variation in policy outcomes.

6.4 Policy Image and Venue Change

In this section we examine the policy image and venue change variables. We deal with two interrelated research questions. Firstly that “do changes in policy image explain variation in policy outcomes over time”, and secondly “do venue changes explain variation in policy outcomes over time”.

6.4.1.1 Policy Image
The policy image variable in this case study is examined in the same manner as the taxi case study. The period of examination occurs over a 45 year period from 1967 until 2012.

**Figure 6.1 Irish Times: No. of Articles per annum relating to Consultants’ Contract**

Figure 1 above displays the number of articles per annum in the Irish Times related to the consultants' contract. As we can see, from no attention in the late 1960's, attention reaches a small peak in 1973-4 that coincides with the Government's attempt to introduce the free hospitalization scheme. Attention to the issue then declines until the late 70's/early 80's when its salience rises again due to the negotiation and introduction of the common contract in April 1981. The issue draws a small level of interest over the first half of the 1980's but as the implications of the common contract began to be realized in the hospital system; it began to attract an increased amount of attention from 1985 onwards. Negotiations for a new contract started in 1989 with attention spiking in 1991 with its agreement. Attention to the issue reaches its lowest level for the period of the
case study from 1992 until 1999 as the growth of the economy and increases in health spending are expected to bring about improvements in the health system. The Buckley contract negotiations, which take place during 1996-97, as can be seen from Figure 1, attract very little attention. The issue then attracts unprecedented attention over the course of the decade of the 2000’s. Attention peaks in 2008; the year the current contract was finally negotiated and then collapsed the following year. It spiked again in 2011, due to the fact that the generous pay elements of the contract were reduced due to the economic crisis.

Figure 6.2 Oireachtas: No. of Discussants in Oireachtas p.a. relating to Consultants Contract

Examining in Figure 2 the number of speakers on the issue in Oireachtas debates, over the same period, we see that the shape of attention to the issue is much the same as in Figure 1. It is interesting to note that the issue attracted more attention in the Oireachtas than in the newspaper in the late 1980’s. Figure 3 below, which shows both the
newspaper and Oireachtas data together highlights this: from analyzing both sources of data in the process tracing element of the research, it appears that the problems of the common contract were feeding through to the Health Boards; part of whose membership was made up of local authority councilors, many of whom were also TDs. These TDs then subsequently raised the issue in the Dáil.

We see from Figure 2 that the 1990’s are a relatively quiet period for the issue in the Oireachtas with the Buckley contract negotiations attracting relatively little attention. The issue then takes off from 2001 and peaks between 2006 and 2008 and then declines rapidly. It is interesting to note that the Oireachtas, unlike the newspaper, does not discuss to any great degree the reduction in consultants’ pay following the economic crisis.

![Irish Times/Oireachtas: Consultants' Contract - Composite Chart](image_url)

Figure 6.3 Composite Irish Times/Oireachtas no. of Articles/Discussants
The fact that both sources of data attract reasonably the same levels of attention at the same time gives some reassurance as regards the data's validity and reliability. We also note, over the time period, the varying degrees that issue arises on the agenda can be attributed to periods where one would expect the issue to attract or not attract attention. We now move to examine variations in policy image of the issue over the period and assess whether these changes occur in conjunction with policy changes.

![Irish Times: Consultants' Contract - Policy Image, No. of Articles Pro/Anti](image)

**Figure 6.4 Irish Times: - Policy Image, No. of Articles Pro/Anti**

Figures 4 & 5 (above and below respectively) display the Irish Times articles and Oireachtas discussants assessed for policy image in favour or against the consultants' position. Unlike the taxi issue, the consultants' contract attracted a more variable change in image over the course of the case study.

Figure 4 shows that the articles favorably disposed to the consultants' position are outnumbered by those against their position for most of the period under examination, while this trend becomes more evident as time moves on. We see also, similarly to the
taxi issue that when the policy image moves strongly against the interest group's position in the 2000's, the interest group are more likely to be propelled into action by submitting articles and letters to the newspaper in order to defend their position.

Figure 6.5 Oireachtas: Consultants Contract – Policy Image, No. of Discussants

Figure 5 similarly graphs the pro or anti positions taken on the consultants' contract by members of the Oireachtas. Again we see relatively little support for the consultants' position with regard to their contract. This is first noticeable during the late 1980's and particularly so in the decade of the 2000's.
Examining now the consultants’ “net” policy image in the newspaper over the course of the case study, we see that the policy image rarely moves into positive territory. It is negative in 1974, following the defeat of the government’s free hospitalization scheme and moves steadily more negative throughout the 1980’s, rising briefly, for the negotiation period of the Gleeson contract and then dropping again in the immediate period after its agreement. The policy image during the 1990’s is generally neutral however during the 2000’s, it moves to a consistent, if sometime erratic, negative policy image. The reduction in negative policy image in 2003 can probably be explained due to a campaign launched by the consultants’ over a dispute involving medical indemnity insurance where they claimed consultants were being left personally exposed by the proposed new government scheme.
Figure 6.7 Oireachtas: Consultants Contract - Net Policy Image

Figure 7, illustrating the Oireachtas discussant’s net policy image displays a more even profile than the newspaper. The policy image was neutral through the 1970’s up until the mid-1980’s when it took a negative turn, as the effects of the Haughey/Woods contract began to become evident. The tone recovered and again remained neutral through most of the 1990’s. It then declines rapidly early in the decade of the 2000’s and remains in negative territory for the rest of the decade, only beginning to recover after the Connaughton contract is agreed in 2008.

With regard to the relationship between policy image and policy change, we see that the issue attracts little attention except for two noticeable periods. The first and smaller period of attention occurs as the effects of the Haughey/Woods contract became apparent in the hospital system in the mid to late 1980’s and a second longer period from the millennium up until the current contract is negotiated. In relation to policy image, similar to the taxi case study and in accordance with PET, the issue attracts negative attention.
when there is high attention to the issue. We see that negative policy image coincides to
the two periods mentioned above. In relation to policy change, we see that when the
consultants win their greatest policy advance in the Haughey/Woods contract, there was
low attention and a neutral/positive policy image, however, in the periods of negative
policy image surrounding the Gleeson contract (late 1980’s/early 1990’s) and
Connaughton period, the wording of these contracts’ tightened and change was expected.
However, as we saw above in the influence analysis only small incremental changes
occurred.

6.4.1.2 Venue Change

Throughout the whole period, potential decisions on the contract move outside the
subsystem on only three occasions.

<table>
<thead>
<tr>
<th>Venue</th>
<th>Date Commenced</th>
<th>Date Repealed</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive</td>
<td>Sep-67</td>
<td></td>
<td>Fitzgerald Report</td>
</tr>
<tr>
<td>Social Partnership</td>
<td>Jan-91</td>
<td></td>
<td>Programme for Economic and Social Partnership</td>
</tr>
<tr>
<td>Judicial</td>
<td>Jun-01</td>
<td></td>
<td>Janette Byrne v Minister for Health</td>
</tr>
<tr>
<td>HSE Board</td>
<td>Jan-06</td>
<td></td>
<td>HSE Board Decision</td>
</tr>
</tbody>
</table>

Table 6.1 Venue Change relating to the Consultants’ Contract

The first movement occurred just prior to the agreement of the Gleeson contract, when
the Government and the Social Partners agreed a programme of reform in the second
partnership agreement The Programme for Economic and Social Progress (PESP)
without the IHCA’s knowledge. The IHCA walked out of the negotiations in January
1991 stating that the agreement represented a breach of their contract. Finbar Fitzpatrick
of the IHCA stated,

Consultants around the country are up in arms at the way they are being
treated by the Department of Health...We naturally accept the right of
Government to decide on health policy but we emphasise the obligation on
the Department to consult the profession that has the major responsibility for delivering Government health policy on the ground.

The Health (Amendment) Act 1991 provided for hospitals to designate a proportion of their beds as public and a proportion as private. Wren states (2003; 91)

Although the IHCA walked out of negotiations on this issue, this was purely in protest that they had not shared the inside track with the IMO, who, as members of ICTU, had been aware that universal eligibility was to be included in the impending social partnership agreement. The IHCA returned to the negotiating table, taking the view, according to Finbarr Fitzpatrick, that “at the end of the day, the government of the day decides health policy and within that, health entitlements. We couldn’t negate or turn back the decision with regard to eligibility.”

As we saw in the influence analysis above, the IHCA returned to the talks when they realized that the new system would make little difference to their private practice income and ultimately the terms of the contract and Health (Amendment) Act were not adhered to.

A second move to a different venue occurred in June 2001, when a cancer patient, Janette Byrne sued the state, because she was denied treatment as a public patient that was readily available to private patients. The case was resolved when the patient was allowed access to private treatment - free of charge. The judge advised the patient that to proceed with the case would take time; time she did not have. She accepted the health system’s offer and dropped the case. This case, which centered on the right to equality of treatment, could have had an important impact on the manner in which private practice is delivered in Ireland.

The third move occurred during the negotiations for the Connaughton contract, when the HSE Board took the decision, in early January 2006, to discontinue offering category II contracts. These contracts permitted public hospital consultants private practice rights in off-site hospitals. When the consultants discovered this following a parliamentary
question in late January, they refused to continue with the negotiations. The government side, in order to get the consultants back to the table, reversed the decision that autumn.

5.4.2 Policy Image and Venue Change Analysis

We see from above and summarized in Figures 6, 7 & 9 that the consultant contract issue, like the taxi licence issue, for a considerable period of the case study attracted little attention and consequently exhibited a neutral, if a little negative, policy image for most of the period. Two periods of negative policy image are evident: A relatively short period of the late 1980’s and a more sustained negative period in the 2000’s. We also we that only three moves to alternate venues occurred during the period of the case study.

<table>
<thead>
<tr>
<th>No.</th>
<th>Venue</th>
<th>Date Commenced</th>
<th>Changes Pro/An</th>
<th>Policy Image</th>
<th>Policy Change Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Executive</td>
<td>Sep-67</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Social Partnership</td>
<td>Jan-91</td>
<td>Anti</td>
<td>Negative</td>
<td>Incremental</td>
</tr>
<tr>
<td>2</td>
<td>Judicial</td>
<td>Jun-01</td>
<td>Pro</td>
<td>neutral/mixed</td>
<td>Incremental</td>
</tr>
<tr>
<td>3</td>
<td>HSE Board</td>
<td>Jan-06</td>
<td>Anti</td>
<td>Negative</td>
<td>Incremental</td>
</tr>
</tbody>
</table>

Table 6.2 Consultants’ Contract: Venue, Policy Image & Policy Change Type

From the examination of the data above, I can conclude that a negative policy image for the consultants results in some incremental policy changes. However, as we saw in the literature review, Timmermans and Scholten (2006; 1105) define policy venues as “institutional sites where the portrayal of problems and solutions take place...They are locations where policies originate, obtain support, and are adopted as binding decisions.” (Emphasis added.) In the Gleeson contract and in the HSE Board “venue changes” neither decision was binding. The Gleeson contract and connected regulations were largely not implemented and in the HSE Board venue change, they had to rescind the decision in order to continue the negotiations. In the judicial “venue change” the matter was dealt with by the subsystem before the court had to rule on the matter so effectively no decision is made outside the subsystem.
The substantive issue always remains within the executive venue which the consultants dominate it. They have the final call on each contract when they vote on whether to accept or reject it and ultimately at hospital level, in their day to day work, they decide what aspects of the contract are implemented and which aspects are not. In relation to the research question, no venue changes occur so therefore no data exists upon which to answer the question. We will examine why no venue change occurs in the findings and analysis chapter.

6.5 In Brief - Case Study Conclusions

On reading the above case study one is struck by the extent of the influence of the hospital consultants but also at the lack of influence and capacity of, government and the broader Irish political system. The consultants exert a strong and steady control over outcomes throughout the case study. They display a high and constant level of influence. During the case study, the consultants advanced their control over the health system and the policy changes that gave effect to those advances occurred when the Government was unsure, uninterested in, or distracted from health policy and consequently low in influence. The consultants gained ground in the Health Act 1970 and particularly so with Haughey and Woods from 1978 to 1981. They also capably saw off the threat from Brendan Corish in 1973-4. Here, the long-term nature of the interest group has an advantage over government.

Once the policy is conceded it is extremely difficult to claw back. The broader political system has vainly attempted, since 1981 to ensure that citizens receive equitable and efficient healthcare. As this failed to materialize over successive years, even with large increases in health funding, the consultants' contract policy image declined. However through-out the period of negative policy image, the consultants are able, first to stall and then control the negotiations for a revised contract. The political system did not achieve the reform it wishes. Unlike the taxi case, there is no venue change in the consultants'
case study. The consultants have enough influence to veto any change they do not agree to and they are intelligent enough to realize that the structure of a particular political interaction is an important determinant in the outcome arising from it.

Arising from the lack of venue change in this case study a key recommendation would be the undertaking of an analysis of the political system to find reforms that would more easily facilitate venue changes in this policy area. Further, throughout the case study there is evidence of a lack of capacity in the broader political system; from politicians, to the media, to policy advisors, and hospital management. This lack of capacity was identified in the aftermath of the economic crisis in 2008, for example Prof. Niamh Hardiman of UCD is currently leading a research project on “Building State Capacity in Ireland”.

Chapter 7

Case Study Findings and Analysis

7.1 Introduction

Having set out theoretical propositions in the literature review; aligned these to a research design in the methodology chapter; and used both to guide the two cases in their individual chapters, we are now in a position, from across both case studies, to draw findings and conduct a broad analysis. In the literature review chapter, I set out the following three specific research questions.

1. Do changes in policy image explain variation in policy outcome over time
2. Do changes in venue explain variation in policy outcome over time
3. Do differences in influence explain variation in policy outcome over time

In the analysis that follows, I firstly discuss findings on the inter-related “policy image” and “venue change” specific research questions. I then discuss the findings of the influence research question. In both analyses, I compare the findings in both studies and draw recommendations.

7.2 Research Questions 1 & 2

As discussed in the literature review, specific research questions 1 and 2 are inter-related because punctuated equilibrium theory posits that as mobilization occurs and the subsystem loses control of the policy image, actors in other venues are attracted to move on the issue (Baumgartner and Jones, 1993; 1054). The “temporal succession” mode of inference, as discussed in the methodology chapter, would suggest that if we observe a negative policy image change then we should expect incremental policy change in the direction favoured by the subsystem “outsiders” and possibly venue change that ultimately leads to a policy punctuation.

7.2.1.1 Policy Image

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Scrubinizing the results of the policy image analysis in both case studies, we see that the frequency with which both issues are discussed in the Oireacthas and newspaper move from indifference to a period of considerable interest over the course of the case studies. The taxi issue started to attract attention in the early to mid-1990’s which then peaked in 2000, while the consultant issue experienced a small surge of interest in the late 1980’s and then a precipitous rise in attention from 2002 until the present contract was agreed in 2008. We also see that both interest groups’ position suffered a considerable decline in policy image during these periods of high attention. The decline in both interest groups’ policy image over time is quite striking. These observations accord with PET: As the failings of the policy become evident due to subsystem control; subsystem outsiders mobilize to draw attention to the matter and the policy image deteriorates (See Baumgartner and Jones 1993; 1055). Simply, the interest groups’ capacity to influence the public perception of the policy is overwhelmed by other forces in the macropolitical system.

### 7.2.1.2 Venue Change

The two cases differ significantly in the number of venue changes that occurred in each of them. In the taxi case study, venue change occurred quite often and noticeably in two clusters prior to significant policy changes. Decision-making occurred in three venues: the executive venue, the judicial venue and the local authority venue. On the other hand, we see no binding venue change in the consultants’ case study. Three moves to alternate venues occurred but none of the decisions of those venues ultimately were binding.

### 7.2.1.3 Analysis of Policy Image and Venue Change

As noted above, the behaviour of the policy image variable is similar in both cases and essentially coheres with PET. However, the cases exhibit significantly different behaviour in relation to the venue change variable. Pralle (2003; 237) notes “the relationship between policy venues and policy change is a variable one...Much depends
on the strategies and resources of the groups who are seeking policy change.’’ Pralle’s reference to “strategies and resources” would seem to imply that “influence” is an important determinant of venue change and consequently of policy change. Does the evidence bear this out?

As we saw in the consultant case, “policy location change” occurred only three times, but none of these qualify as a venue change according to the definition because the new locations’ decisions were not binding. In the change to the “Social Partnership” location in 1991, we saw that ultimately the policy was not implemented. Also, in the HSE Board location change during the last set of negotiations, the Board rescinded the decision in order to get the consultants back to the negotiating table. In the move to the judicial venue, the case was resolved by allowing the applicant access to private practice; free of charge. The court did not rule on the substantial issue of discrimination on the basis of ability to pay.

Pralle (2003; 239) states that “Some issues are so firmly associated with a particular venue that any change would be extremely slow and in some cases unattainable.” With the evidence of the consultant case, I would go further than Pralle: the consultant contract issue is deeply embedded in the executive venue rather than associated with it. Consequently, the influence of the different actors within that venue is a key determinant of the outcome. As a senior civil servant pointed out,

[consultants] have huge influence over the entire health system...you can achieve almost no major health sector reform without their direct and genuine co-operation and they know that.

The nature of consultant work means that it is sometimes delivered, unpredictably, immediately and in a life or death situation. In addition, consultants are the only people capable of delivering this service and further, judge if the service has been delivered appropriately. Also, only they can decide what resources are necessary to deliver their services efficiently.
Further, we saw in the appeal to the High Court that the policy subsystem has, within its
gift, to easily provide an individual applicant with the required treatment and
consequently stop the “location change” from proceeding to a “binding decision” venue
change. As a consequence of this “control over outcomes”, the issue remains within the
executive venue. Rulings can be made outside this venue but in the heat of a life or death
situation and its surroundings, no one else is in a position to question consultants’
practices or their use of resources. Consequently the rules of outside venues are largely
non-binding and as we saw in the case study, this allows consultants the ability to
effectively construct their chosen institutional structure. I examine this further below.

In contrast, the taxi issue moves between a number of venues, depending on the influence
of various actors and policy image at different times. In the taxi case study, the drivers
build enough influence to have the venue moved to the local authority on two occasions:
in 1978, and again in 1995. The local authority venue, on both occasions, struggled to
deal with the taxi drivers influence: when the function of issuing licences was moved to
its jurisdiction in 1978, virtually no licences were issued until the executive venue took
back authority to issue licences in 1991 and, in 1996, despite evidence of an acute
shortage of taxis, Dublin City Council, on its first attempt since regaining licensing
authority, reduced a decision to introduce the relatively small number of 200 licences to
100 licences.

This venue was controlled, in line with Ostrom’s multi-level framework (See Literature
Review), at the deeper level of the executive venue. The executive venue gave up
jurisdiction in 1978, took it back in 1991, gave it back in 1995 and retook it again in
2000. It passes jurisdiction back and forth depending on whether it wishes to deal with,
or avoid the issue. We also see that when the taxi issue is passed to the local authority
venue, the taxi drivers exhibit a high level of influence over the executive venue and it is
low when the executive retakes jurisdiction.
The judicial venue was also asked to intervene several times in the taxi case. As Pralle (2003; 234) notes venue shopping can be experimental. This appears to be the case in the early appeals to the judiciary in the 1970's. When the ITF seek an injunction prior to the September 1976 licensing period, they only ask the court to stop the Government from issuing licenses “to persons not showing that they possessed, maintained, and used the vehicle in compliance with the regulations”. This was to stop “double-jobbers” becoming taxi drivers. They did not ask the court to stop the issuance of licences. When new taxi licence applicants appealed to the courts, following the Government’s suspension of the 1978 licensing period, to rule that the Minister, as he had claimed himself, must issue licences regularly, the High Court and subsequently the Supreme Court ruled that the Minister could effectively suspend licensing indefinitely. This venue change “experiment” obviously did not play out as the new licence applicants expected. The taxi drivers, subsequently regularly appealed to the courts when they believed their rights had been infringed. They took cases in 1979 to stop licenses being issued in Cork, in 1983 to stop hackneys using “two-way radios”, in 1993 following the final interdepartmental report and in 2001 to stop the liberalization of the market. It is interesting to note that after the 1979 ruling, the taxi drivers were not successful on a major issue in the courts again for the rest of the case study. Two cases were taken by “subsystem” outsiders. The O’Dwyer case in 1998 and the Humphreys case in 2000 both sought rulings that the hackney market should be regulated in a similar manner to the taxi market so that hackney drivers could the same advantages as taxi drivers. They lost both cases; with the Humphreys case having the effect of the High Court ruling that the regulations favouring existing taxi drivers as a form of compensation for the loss of value of their existing licences were illegal. This case set in train the eventual punctuation.

A further insight into the role resources play in venue change can be seen by examining the members of the public who appeal to the alternate venues. In appeals to the judicial venue, in the taxi case study, we see that they were taken, either, by potential entrants, attempting to break into the industry, or by incumbent drivers attempting to stop entry.

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446 Irish Times 1 Sep. 1976
Both have a strong and potentially lasting economic interest in the outcome, for example, in 1978, the plaintiffs wanted to become taxi drivers; in the Hempenstall case in 1993, the case was taken by incumbent taxi drivers, in an attempt to stop potential competitors; and in the Humphreys case in 2000, the plaintiffs wanted the court to rule that existing hackney drivers should be treated similarly to the taxi drivers. Further, these cases are generally taken by individuals on behalf of groups, who contribute to defray, the possibly substantial legal costs. For example, the taxi representative associations meet the costs of taking legal challenges by collecting, for example, €50 from each member.\textsuperscript{447} We see here, for a relatively small cost to each taxi driver, the benefit to cost ratio could be substantial.

In contrast, in the consultant case, the petitioner to the courts is in a very weak position: She is not part of a group and must bear the potentially substantial legal costs herself. The costs of taking on the very profession treating her, for a life and death ailment, must have been considerable: in terms of risk; emotional, mental and physical wellbeing; financial security; and time that the judge pointed out wasn’t on her side.

We see from the above analysis that the consultant position is so embedded in the executive venue that policy cannot be delivered without their full and genuine agreement. Tony Blair’s Chief of Staff, Jonathan Powell (2010) noted in his book \textit{The New Machiavelli - How to wield power in the modern world} that when the UK government tried to introduce work practice reforms for their consultants that,

\begin{quote}
Taking on such powerful vested interests caused a counter-reaction.... Doctors fought back against the reforms by arguing that they should make the decisions on healthcare not politicians. The lesson is that in the public service you have to carry the vested interests with you because you need them to deliver your reforms, and you cannot afford to just fight them in a head on conflict...
\end{quote}

\textsuperscript{447} Interview with Des Dempsey
However, the UK does exert greater control over its consultants than the Irish health system\textsuperscript{448}. Why is this the case? A key difference between the two jurisdictions is the stronger and more determined development of management in the UK hospital system. I suspect that this may be because UK Governments are less prone to ruling as coalitions are consequently less worried about upsetting a strong interest group, like hospital consultants. Apart from reforming the political system, a strategic and Machiavellian way forward for the Irish government would be to attempt to split the consultants as a group: this could be achieved by appointing consultants to act solely as hospital managers for reasonably long periods and strongly incentivizing these consultant managers to increase efficiency and meet targets.

7.2.2 Case Comparison – Policy image and Venue Change

The dynamics of policy change in the taxi case study broadly adheres to the expected outcome of PET, while the consultant case study doesn’t. The drivers’ policy image deteriorates over time; the subsystem loses control of the issue to alternate venues; and ultimately punctuation occurs. In the consultants’ case, however, the subsystem never loses control of the issue, despite one minor and one severe deterioration in their policy image. The resultant “location changes” do not qualify as venue changes because their outcomes are not binding. No policy punctuation occurs, with only minor incremental policy changes evident.

From the above analysis, we can conclude from both cases that in answer to research question 1, “Do changes in policy image explain variation in policy over time” the research finds that a decline in policy image does bring about incremental change in both cases. Despite, the consultants’ contracts largely not being implemented, there is some evidence to suggest that work practices have tightened to a degree. In relation to research question 2, there is evidence from the taxi case study to suggest that venue change brings about policy change. This is most starkly demonstrated in 2000, when venue change

\textsuperscript{448} C & AG Special Report Medical Consultants Contract March 2007
brings about the complete liberalization of the licensing system – a policy punctuation. In the consultant case study, we see a major decline in policy image; however, the “venue changes” that occur are not binding and consequently, only minor incremental policy changes occur. Sometimes a group is so influential a venue change is very unlikely to occur. This is similar in finding to Pralle (2003).

7.3 Research Question 3

Do differences in influence explain variation in policy outcomes over time?

Having gathered and analysed the data within the scope and domain of the individual case studies, we see that differences in influence explain variation in policy outcomes over time. Both the consultants and the taxi drivers exercised significant influence over policy outcomes during the period and we also see indirectly that the influence of government over policy varies across governments. The data also shows that both the taxi drivers and the consultants level of influence over policy changes over time; that each of them exhibit different levels of influence; and that there can be large variations in an interest group’s influence. With regard to the research question, it is reasonable to conclude on the basis of the analysis of the data that differences in influence explain changes in policy outcomes over time and across cases.

Policy is largely set according to the consultants preferred outcomes. Consequently, given the preponderance of coherence between their stated preferences and actual outcomes over the length of the case study, I conclude that they exhibit a generally constant and high level of influence over the entire case study. Their recommendations in the Fitzgerald report were largely granted. The Haughey/Woods contract effectively gave them an “open goal” and granted their full wish list. Barry Desmond in the 1980’s placed obstacles in their way but largely wasn’t able to change policy in the manner he would have desired and from the agreement of the Gleeson contract in 1991 to the present day, the Government had continued ineffectively to determine policy in the hospital system. The current Connaughton contract, despite efforts of the Government to
bring about radical change, largely remained in the same format as previous contracts, with some reasonable but hardly radical reforms. It is presently emerging that the Connaughton contract is not being implemented with regard to the public/private patient split, although the ability of consultants to treat and discharge each other’s patients has improved efficiency. However, as with all claims of influence they must be drawn with caution. Even though policy was largely set according to the consultants preferred outcomes, we do not have complete information as to how much these outcomes were also desired by others with influence in Irish society. The Chairperson of the Commission on Health Funding Miriam Hederman O’Brien illustrates this point when she stated that the government did not implement the recommendations of the Commission because the government did not want to upset “an unknown number of people - not only consultants but also local councillors, administrators and maybe the general public” [Quoted in Wren (2003; 84)]. Further, it is important to again draw attention to the fact that we can only makes claims of influence about the consultants within the domain of policy regarding their employment conditions and the scope of the actors involved in that arena.

In the taxi case study, we see the drivers’ influence build gradually whereby they continuously obtain interim outcomes that lead them ultimately towards their stated key outcome. It is interesting to note that in comparison to the consultants’ case, no other sector of society has an interest in seeking a cap on the number of taxi licences; consequently, we can, with caution of course, draw more concrete claims about the nature of influence in the Irish political system. In the early years, they achieved small gains: a couple of backbench TDs asked questions in the Dáil on their behalf; after a delay, they were granted a meeting with officials; Government met some of their secondary demands, such as limiting the licensing period and bringing in regulations to stop part-timers and eventually, it acceded to one of their main interim demands and established the “Taxi Services Council”. Finally, in the late 1970’s, they achieved their main policy goal of a licence cap. When their position comes under pressure in the 1990’s, they were able, despite ever growing pressure, to largely maintain it, with only small numbers of licences being issued over the course of the decade of the 1990’s. However, their
influence over policy outcomes collapses in 1999-2000. Again, it is important to draw attention to the fact that the claims of influence about the taxi drivers are within the domain of taxi licensing policy and the scope of their influence over the actors therein relate to the actors involved in the policy area.

7.3.1 Case Comparison - Understanding the Differences in Influence

In trying to understand, the differences in influence (i.e. control over outcomes) between the two interest groups, it is informative to examine their various bases of influence. As noted in the literature review, following the warnings of Dahl, Polsby and others, I do not identify influence as being the “bases” or “resources”, however, I do use them, following Morriss, as useful evidence in reaching assessments of influence. The bases are helpful indicators and explanators of influence, not manifestations of influence itself. As we saw, Scharpf, Ostrom, Dahl, Sabatier and Weible, French and Raven all listed relatively similar influence resources or bases. As developed in the Literature Review, I use a typology of bases of influence, developed specifically with regard to policy change. In the section that follows, I analyse both cases according to each influence base. This allows for each interest group to be compared in a manner that is informative.

Looking at each of the bases of influence individually:

1. Ability Influence Base

Taxi Drivers

The skills required to be a taxi driver are normal driving skills. Consequently, the ability “entry barrier” to be a taxi driver is very low. Most adults could become taxi drivers with a small amount of training. The minimal amount of expertise required to be a taxi driver was also reflected in the fact that many of the taxi-drivers had low levels of education.\(^{449}\) The taxi leadership, developing from the 1960’s, showed an increasing ability to organize successful campaigns of lobbying and disruption, but as the problem became acute, the

\(^{449}\) Interview Des Dempsey
drivers and their leadership lacked the strategic foresight to agree an early resolution that would have safeguarded their long-term interests.

**Consultants**

Consultants are among the most intelligent, hard-working, dedicated and diligent members of society. In order to qualify as a consultant, they will have scored highly in school, undergraduate and postgraduate examinations. Their ability and skills will also have stood out when being assessed in relation to clinical practice. As consultants, in charge of a team of junior doctors and other medical staff, in life or death situations, they must display strong leadership ability. Allied with their financial ability (see below) to hire exceptional people to represent them, they present as a formidable and intimidating opposition to any management negotiation team.

The consultants display strong strategic awareness throughout the contract negotiations. They rarely discuss salary in public and when they raise a contract issue on the public agenda it is generally framed as being for the benefit of the patient.

2. **Reward/Punishment Influence Base**

**Taxi**

Taxi drivers have a considerable ability to convey electoral value to politicians. All the politicians I interviewed recognized this as a major source of their influence. During election campaigns, they displayed on their vehicles their preferred candidate’s and political party’s name. One politician stated that the exposure this gave a candidate would cost an enormous amount of money if bought through any other media. They also contributed money towards their favoured candidates' campaign funds. A politician, closely identified with the taxi drivers held an annual Christmas party fund-

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450 Interview with Micheal Smith, Catherine Murphy, Martin Brady and Olivia Mitchell
451 Irish Times 20 Nov 1999, Interviews Olivia Mitchell and Catherine Murphy
452 Interview Olivia Mitchell
453 Interview Des Dempsey
raiser, specifically for the taxi drivers in the Houses of the Oireachtas. Some taxi drivers also canvassed door-to-door for their favoured candidates and made their cars available, on election-day, to ferry voters without transport to and from the polling station. This journey came with the added benefit for their chosen candidate of a favourable canvas by the driver on the journey. Many taxis, even outside electoral periods, carried a sticker stating “Taxi-drivers support Fianna Fáil”. The taxi representative associations also organised their drivers to lobby passengers to vote in favour of particular candidates. They even went as far as coaching drivers to canvas passengers from different demographic groups with specific tailored messages.

Taxi drivers were willing to strike and blockade the streets if necessary. The cost to an individual taxi driver of blockading is small – less than a half day’s income. The cost that they could impose on citizens, businesses, commuters, politicians etc. by a blockade was enormous. This was a considerable source of influence for the taxi drivers. Several times during the case study we see that the government only moved in the drivers’ favour after they had engaged in a blockade. As one taxi driver noted “It may not have won us friends among the public but it was effective.”

Another source of taxi driver influence was intimidation. Taxi drivers would overrun the constituency clinics of politicians who spoke out against them. The taxi drivers’ aim of this tactic was to “shut them up”. When Bobby Molloy liberalized the licensing regulations in 2000; a credible death threat was made by “criminal elements” within the taxi industry and he was given Garda protection. In the post-liberalization period, the

454 Interview Des Dempsey
455 Ibid
456 Personal observation and interview Vincent Kearns
457 Interview Vincent Kearns
458 Interview Des Dempsey
459 Ibid
460 Irish Times 29 Nov 2000
newly established taxi regulator received bullets in the post. There is also other anecdotal evidence of intimation of officials and county councillors.461

Consultants

A consultant can have considerable influence on whether a patient lives or dies. They can also significantly influence a person’s quality of life. This influence can be general: in the sense that, how they organise their work practices has an enormous impact on the efficiency of the health service and consequently, its general outcomes; or the influence can be specific on how they treat a particular individual patient. Finbar Fitzpatrick identified the source of a consultant’s influence as arising from their capacity to decide on life or death. “The contract says that the reality is that the final decision on your medical state is the consultant…It’s the medical authority and it cannot be questioned”.462 This is an enormous source of influence over anyone’s response to their wishes.

The consultants, under the various contracts, have considerable personal discretion with regard to whom they treat. They have control of when and where a patient is treated through their control of the waiting list. They have the power to decide to treat a patient personally or delegate the treatment to another less-qualified member of staff. This gives the consultant the ability to extract considerable fees from patients who are already entitled to their services free of charge.

Hospital consultants command high public salaries and are also able to earn considerable fees from private practice; consequently they can afford to hire capable staff for their representative bodies. A former senior civil servant in the Department of Health described the consultants as “a small number of people, very well off...they are willing to pay for their representation”.463 This is undoubtedly the case. The General Secretary of the IHCA from its foundation until his retirement in 2011 was Finbar Fitzpatrick.

461 Interview John Weafer
462 Interview Finbar Fitzpatrick
463 Interview David Maloney
Fitzpatrick had been a very highly regarded General Secretary of Fine Gael during their period in Government from 1982-1987. He also acted as the Fine Gael Director of Elections in the 1992 general election. George McNiece, former General Secretary of the IMO, was paid an annual salary of almost €500,000 and on early retirement at 53 years of age, it was revealed that he was granted a pension package worth €20m. This was reduced to one worth €10m following an outcry on its revelation. He was described by one senior civil servant as the most influential person in the medical politics arena.

The withdrawal of consultant services could immediately have fatal consequences. This leaves any hospital manager or politician in a very weak position when dealing with them. Brendan Corish withdrew the Government’s “Free hospitalisation scheme” when they threatened industrial action. As a mark of their professionalism, the IHCA has as a core principle never to go on strike. However, in order to get their way, one could argue they don’t need to. As we saw above, if they want to stymy any reform, they can just withdraw their cooperation. When Barry Desmond asked them to pay for their private use of public facilities, they simply refused and the government could do very little. When the government tried to introduce the clinical director model in the early 1990’s, the IHCA refused to take part.

We see from this that they only need not to cooperate in the running of elements of the health service before they put severe pressure on management and politicians. The consultants may not strike but they are willing to take various other forms of non-cooperative industrial action that can severely impact on the ability of hospital management or the Minister for Health to manage the health system. A nurse at the INO annual conference in 2001 summed up the implicit agreement that has largely been reached on the hospital system,

Who controls access to the hospitals? The medical profession. The politicians won’t take them on although they know what’s going on. It

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465 Interview Frank Ahern
is a conspiracy against the patient to keep power vested in the medical profession (quoted by Wren (2003; 162))

While a health system manager explained why this agreement existed,

There are no votes in saying I am going to disturb 1,000 consultants. If a politician appears in an argument with a doctor on the evening news, the doctor always wins (quoted in Wren (2004; 162)

As we can see from the above, consultants have significant levels of reward/punishment influence resources. They can convey life or death, health or ill-health; significant amounts of financial resources; and an easy or hard life for a Minister for Health or a hospital manager.

3. Social Influence Base

Taxi

Taxi drivers throughout the period have a very mixed relationship with the society they live-in. Sifting through the data, I came across several examples of taxi-drivers going out of their way to look after a distressed passenger or reunite a passenger with lost property. They also organise an annual day-out for children with special needs. On the other hand, there are also examples of taxi-drivers over-charging passengers, engaging in anti-social behaviour and blockading the streets. Throughout the decade of the 1990's the taxi drivers standing in society declined dramatically. For example, a newspaper article in January 1992 states "Certain occupations tend to arouse hostile emotions in people – pompous bank managers, persistent landlords, obsequious politicians. Taxi drivers took their toll this Christmas". The relatively small amount of social capital or social standing that the drivers had was lost during the 1990's. They also displayed little understanding of the need to nurture and protect this standing within the broader society.

466 Irish Times 11 Sep. 1996
467 Ibid 23 Jan. 1992
The taxi drivers have an insignificant amount of social influence resources. We see this reflected in the policy image variable.

Consultants

As noted above, consultants have the power, to convey life or death, often in dramatic circumstances. As a consequence, people tend to treat them with respect, deference and sometimes reverence. This also affords members of the profession a certain amount of allure and charisma. The medical profession is held in high esteem by the public, particularly in Ireland. For example, a senior civil servant stated “I think the perception of medics in Ireland is very very high. They would be seen as having a higher standing than in some other countries.” Further, due to their ability to command high fees and salaries, they can have all the trappings of success: large houses, expensive cars, designer clothes etc.

They are also the profession who have monopoly control of information and skills that can determine our own health and the health of our nearest and dearest. All our lives are in their hands to some degree. Ill-health is something that ultimately affects us all. This has the effect of engendering a certain amount of goodwill towards them particularly as individuals but also as a profession. It also means that people, in general, tend to be reticent or cautious of publicly criticizing them. Who wants to be identified as a critic of a profession that ultimately makes decisions on you or your family’s; health, life or death? Broader society generally recognises that hospital consultants are highly skilled, hard-working and dedicated people. We see during the case study that the consultants’ policy image relating to their contract declined. Their social standing has declined to some degree in recent years, with for example, a prominent consultant claiming that his children did not want to admit to their friends their father’s profession. However, despite this decline, the consultants retain significant social influence resources.

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468 Interview Fergal Lynch
469 Sunday Independent 10/Feb/2008
4. Expert Influence Base

Taxi

Taxi-drivers have relatively little expertise. The knowledge and skills required to be a taxi drivers are standard driving skills and a topographical knowledge of the taxi-meter area. Taxi drivers have little monopoly possession of information except where the customer is a tourist. This is not a source of influence for the taxi drivers.

Consultants

A hospital consultant is also known as a "specialist". In other words, consultants are the top-level experts in their field. The definition of a consultant in the various contracts is a registered medical practitioner "who by reason of his training, skill and experience in a designated specialty, is consulted by other registered medical practitioners". With less than 2,000 consultants across all the medical specialities in the country, an individual consultant has expertise in short supply. Consultants are effectively monopoly holders of top-level medical expertise and information.

This monopoly expertise gives the consultant an enormous informational advantage at three levels of interaction. Firstly, the broader political system is reliant on the medical profession for information on policy design. Any politician or non-medical policy expert disagreeing with the medical profession publically is at a disadvantage. Secondly, at a resource use level, how can a non-medical manager question a consultant's level of use of hospital resources, or as we saw, question the allocation of resources between public or private uses. Further, how can management decide if a consultant is off-site attending an emergency case or carrying out routine elective private work to the neglect of their public duties? Thirdly, at the service user level, how can a patient know if the course of treatment is necessary, appropriate or if the doctor is just treating the patient to extract fees?
This informational asymmetry was further reinforced in the first three contracts when the consultant was given the right to "direct without supervision" the medical treatment of their patients. We see from the case study that from the Gleeson contract onwards, the government tried to involve consultants in management to little avail. The Clinical Directorate role and the ability of consultants to treat and discharge each other's patients, in the current contract have improved efficiency somewhat. Again, we see that the consultants exhibit a strong form of this influence base.

5. Positional Influence

Taxi

Taxi drivers are by law granted the exclusive right to ply for public hire. They also have the sole right to carry signage indicating that they are for hire and the sole right to stand at designated ranks for hire. This monopoly power in its own right is small. As Gorecki (2014; 15) states "The taxi market can be characterized as inherently structurally competitive with easy entry and exit, few sunk costs and a large number of small operators." There are also many close substitutes, such as hackneys, buses, trains, private vehicles etc. However, particularly at night and weekends their monopoly power is increased due to drink-driving laws and a lack of public bus or train services.

As we saw, following a successful campaign to restrict entry, the monopoly power of the taxi drivers rose to a considerable level as over time the number of customers per licence increased. This was reduced minimally by increases in hackney licences and the addition of a limited late-night public bus service. The drivers exhibited a strong form of positional influence until deregulation in 2000.

Consultants

All medical doctors, not just hospital consultants, are granted exclusive licence to perform certain medical procedures. Hospital consultants are the chief medical personnel
whom other less qualified doctors “consult”. In the first three contracts, consultants were granted the formal authority to direct without supervision the medical treatment of their patients and given the ability to direct other medical staff. The consultant/patient relationship was also defined as being a “personal matter between each consultant and each patient”. As the Brennan Report pointed out, they were not accountable in non-clinical matters or for the resources they used to anyone. Consultants are also in key positions throughout the health system: they had a majority on Comhairle na nOspidéal: the board that decided on consultant appointments and they are often found on the Boards of hospitals. They also held positions on the regional Health Boards before they were abolished. We also saw above in our analysis of venue change that consultants are embedded in the hospital system. This strong positional influence diminishes the binding nature of any regulations or agreements made outside the immediate venue. This is a considerable source of influence for the consultants.

6. Structural Influence Base

Taxi

Taxi licence holders during the case study period were a relatively small group of less than 2,000 people. Their policy aim was effectively a private good - only taxi licence holders benefitted from a cap on licences. The payoff from the achievement of their goal is obvious and was reflected rather quickly in the monopoly prices the licences attracted in the early 1980’s and again in the 1990’s. The membership of the group is relatively homogenous, with many taxi drivers coming from a similar socio-economic background. As a group they are relatively cohesive; this is helped by the fact that they spend time together on taxi ranks; take breaks together and due to the unsocial hours they work, to socialise together.

The taxi drivers as a group split regularly during the period, however, this did not appear to greatly diminish their effectiveness, probably because their aims and tactics remained the same and they exhibited strong norms around behaviour such as crossing picket lines. Errant taxi drivers were socially ostracised. Drivers’ costs of organisation are small -
information could easily be disseminated and debated at the ranks and the cost of taking time off for meetings etc. was also inconsequential.

On the downside, their key policy aim of achieving and maintaining a licence cap was relatively easy for the public to understand and the outcome was unambiguous. The issue was also constantly brought to the attention of business travellers during the week, socializers at weekends and everyone at Christmas. Queues at taxi ranks, limited telephone bookings, regular no-shows at agreed appointments, long and cold walks home were simple and unambiguous signals from which cause and effect could be attributed by the public. This reduced the taxi drivers’ influence. However, this was still a relatively strong source of influence for the taxi drivers.

**Consultants**

Consultants also are a relatively small group of people, numbering from 800 at the start of the case study to just less than 2,000 at its end. Their policy aim was a private good – hospital consultants benefited significantly from the contracts. As Mary Harney noted in 2008, Irish consultants were the best paid in the world. Consultants as a group are homogenous: They train and work together from a relatively young age. As individuals, they identify strongly with one another and socialize with one another. They are very cohesive, with very strong norms of loyalty and obedience. This is drilled into them from their early training. Doctors who break ranks can be socially ostracised and side-lined. In a book written under the pseudonym “Doctor X”, the author (2007; 53-57) lists a series of instances where junior doctors’ careers were damaged due to small transgressions, particularly for criticizing their supervising consultant. This was also illustrated by the Neary Case; where 3 medical consultants asked to investigate a colleague chose to act in a “collegiate” manner and protect him rather than expose his medical malpractice. The consultants’ costs of organisation are relatively small due to their wealth.

The effects of the contracts on the health system were wide-ranging and complex. The public generally do not exhibit strong preferences regarding the health service unless they
are patients and there is often not an obvious link between the problem of a waiting list and the consultants’ contract. This, again is a strong source of influence for the consultants.

7.3.2 Summary - Comparison of Influence between the Cases

We saw from the case studies that when assessing influence as “control over outcomes”, the consultants were predominately able to achieve within the domain of the case study the outcomes they desired. Further they were able to do this over the full length of the case study. On the other hand, the taxi drivers built their influence over taxi licensing policy over the course of the 1960’s and 1970’s, reinforced it in the 1980’s, fought a strong battle to maintain it during the 1990’s, only to see it collapse in 2000.

From the analysis of influence bases above, we get an idea of why the outcomes in the case studies differed. Out of the 6 influence bases, the taxi drivers’ exhibit influence in only three bases, while the consultants displayed a high level of influence in all six bases. Of the three bases where, the taxi drivers exhibited influence, the consultants displayed a higher level of influence.

The consultants influence rests on a much securer basis than the taxi drivers. Consequently, the consultants are able to determine outcomes over a broader expanse of key national policy through their influence over their working conditions. They are also able to exert this influence over a considerable period of time and against many challenges. The taxi drivers use their narrower influence base to good effect, however, their influence covers a relatively small span of transport policy. They are unable to stop hackney licences and some taxi licences being issued in the 1990’s and they generally fail to broaden the debate to include other modes of public transport. When their influence comes under pressure, they are able to fight off opposition for a reasonably impressive period of time but ultimately they lose badly. I think it is reasonable to conclude that the consultants displayed a greater level of influence over outcomes than the taxi drivers. I
further conclude that particularly in the taxi case but also to a much smaller degree in the consultants’ case that each interest groups level of influence varies over the course of the case study.
Chapter 8

Contributions and Conclusions

8.1 Introduction

Having analysed and discussed the findings of the three specific research questions in the previous chapter, I am now in a position to draw together the various remaining threads of this research. In the material that follows, I first review the research aims and then move to discuss the contributions of this research to knowledge. I conclude by outlining the limitations of the current research and make recommendations for future research that could be conducted in the policy process and interest group research areas.

8.2 Research Aims and Contributions

The aim of this research is to examine the dynamics of policy change in certain sectors of the Irish political system. I particularly wanted to understand the role that interest groups, who primarily sought a "private good" type policy, played in the formation of policy and I also wanted to investigate if these interest groups had influence over policy; and if so, what were the bases for this influence. This led me to develop the primary research question: What explains variation in policy outcomes over time in particular sectors of the Irish Political System?

In conducting the research it was necessary to identify a suitable theoretical framework in order to answer this primary research question. This involved a broad and detailed review of the literature. Given my training as an economist, I spent a considerable period of time reviewing the economics literature relating to interest groups, regulatory capture, public choice and rent-seeking. From this literature, using Scharpf and Mayntz's actor-
centered institutional framework, I conducted the pilot case study and the proceeds of which were published in the Journal of Public Affairs. However, I was unhappy with the theoretical design and I continued in its development. I subsequently reviewed Ostrom's IAD framework, and consequently, Baumgartner and Jones', punctuated equilibrium theory and Sabatier and Jenkins-Smith's, advocacy coalition theory. I found these theories to be the most relevant to answering the primary research question; however, I found it necessary to "re-engineer" variables from both theories into a suitable cluster so that I could comprehensively answer the primary research question. This theoretical development is my first contribution to knowledge. The second contribution is an empirical identification of an area requiring further theoretical development - it identifies the connection between influence and venue in the policy process. As Baumgartner and Jones (1993, 2009; 277) indicate "Pralle rightly points to some complications in the venue-shopping model"; this research expands and deepens our knowledge of the relationship between venues and subsystems.

Due to the "re-engineering" of some of the variables of ACT and PET and due to the nature of the question, it was also necessary to create a bespoke methodology to answer the research question. This involved a couple of methodological innovations: firstly, the influence variable is measured over the very long term and tracks in greater depth than has generally been done before, the attempts of the interest group in determining the policy outcomes. Secondly, I have adapted the "policy image" concept as a measure of the interest groups' influence on the "outside" of the policy subsystem. This to some degree returns to Baumgartner and Jones original (1993) conception of the variable. The final contribution deals with the contribution of this research to our knowledge of the Irish policy making system. It identifies, with caution, which actors within the case studies are generally able to achieve their policy goals and explains why they are able to achieve those goals. In examining the dynamics of policy change in the Irish political system it finds that policy can cohere to punctuated equilibrium theory but where an interest group is especially influential, it can prevent, at least in the medium term, a punctuation

occurring. The key applied contribution in relating to the Irish political system is that there appears to be a dearth of venues, in which interest group power can be broken down.

8.2.1 Contribution 1 – Policy Process Theory

The theories of the policy process, that examine multi-linked arenas, have evolved through researching different elements of the policy process. As we saw in the literature review, Schlager (2007; 297) states “The theories of agenda setting and policy adoption cluster together nicely, complementing one another even as they focus on different variables at different scales.” She further elaborated that PET concentrates on the “most coarse scale” accounting for “system-level patterns of decisions surrounding a policy subsystem” in the macropolitical system while ACT “attempts to explain policy changes in a subsystem” (2007; 298). From this we see that PET’s concentrates on the causes of policy change from the outside a policy subsystem while ACT examines the forces that cause policy change within it. The contribution that this research makes is that it explains policy both from within the subsystem using a conceptualization of influence as a variable to explain the forces that bring about policy change and using an “outside influence” policy image variable and venue change variable to explain the forces that bring about policy change from outside the subsystem.

Explaining the basis of this research’s theoretical development, we see that the seminal insights of Schattschneider and Olson indicate policy making would, to varying degrees, take place within a policy subsystem. Ostrom’s conception of multi-linked arena institutional analysis demonstrates that policy could take place on different linked levels. From this we see that Redford’s conception of the macropolitical arena, used by Baumgartner and Jones in PET provides a convincing conceptualisation of a broader policymaking arena that could be linked, one level down, from the outside to the narrower subsystem arena, while ACT largely saw the subsystem as a linked arena that decided policy from within.
I conducted the theory-design phase of the research, as advised by Yin (2004; 28), in conjunction with an initial pilot case study of the taxi policy issue. From examining the pilot case study, I gained a sense that taxi policy in Ireland was largely decided in a narrow multi-level linked arena that involved taxi drivers, bureaucrats and politicians, however I also noticed that as the taxi situation in Dublin deteriorated during the 1990’s, other locations came into play that involved the broader areas of public opinion, the media, the parliamentary system and the law courts. From the evidence of the case-study, it appeared that policy was to differing degrees decided on an “inside” basis by the subsystem and only occasionally the “outside” macropolitical system intervened to change policy.

We saw in the literature review that ACTs main focus is on how different “sides” of a policy argument interact and change beliefs in order to reach agreement. These different sides are conceptualized as “Advocacy Coalitions”. The theory views each coalition’s different types of “core beliefs” as being the major obstacle in bringing about policy change. Sabatier and Weible (2007; 199) recognising the limitations of advocacy coalition theory, modified it significantly by adding three variables, (1) Coalition Opportunity Structures, (2) A Typology of Coalition Resources and (3) Two New Paths to Major Policy Change. The “Coalition Opportunity Structures” modification was added due to criticism that it reflected to too great an extent its pluralist US origins and was not reflective of corporatist or less democratic countries; while the second modification the “Typology of Coalition Resources” recognizes the “traditional” bases of influence as a variable that were also identified by other such writers as Dahl (1961; 226), Ostrom (2007; 28), and Scharpf (1997; 51). Looking at the final modification, we see that the “Two New Paths to Major Policy Change” recognize that both negotiated agreements and shocks occurring within the subsystem may also cause policy change.

In examining the above variables with regard to policy making inside the subsystem, I came to the conclusion that even if certain actors did change their policy beliefs it
ultimately depended on their influence within the policy subsystem as to whether policy changed or not. Further, the new paths to major policy change: shocks within the policy subsystem and solutions negotiated within the policy subsystem could also effectively be handled within an influence variable. A shock within the subsystem, for example, the death of a key player or a major scandal could be encapsulated as a change in influence; similarly negotiated solutions within the subsystem could be captured by examining each actor’s influence. With “policy beliefs” and the “two new paths” being encapsulated into a broader influence variable, this led to it emerging as the leading variable on the “inside” of the system.

The “Coalition Opportunity Structures” modification attempts to broaden outs how ACT conceptualizes the nexus between the subsystem and macropolitical system. As we saw in the literature review ACT also identifies two distinct types of “external perturbation” as drivers of policy change outside the subsystem, with one set being “fairly stable” and the other “quite dynamic” Sabatier and Weible (2007; 193). “The relatively stable parameters include basic attributes of the problem...the basic distribution of natural resources, fundamental sociocultural values and structures and basic constitutional structure...The dynamic external factors include changes in socioeconomic conditions, changes in the governing coalition, and policy decisions from other subsystems.” ACT however offers no systematic manner in which to establish the effect of these outside changes on policy outcomes apart from identification of the need to take them into consideration. Further, Sabatier and Weible (2007; 203) in their modification “Typology of Coalition Resources” also recognise “public opinion” as a “major resource for policy participants” but again there is no attempt to systematically establish this outside effect.

PET also sees “external perturbations” as driving policy change, however, it spends a large amount of effort theorising about how these external changes are dealt with within the information-processing system that is the political structure. It recognises how information feeds through the broader political system and how the institutional structure and cognitive limitations of the human brain effect the pattern of policy changes. PET
uses various conceptions of “policy image” or “issue definition” as a means to assess how the broader political system views a particular policy. In its quest to explain the pattern of policy change, PET has developed a sophisticated means of recognising and measuring “issue definitions”. For the current research, influenced by ACT recognising “public opinion” as a “major resource for policy participants” and due to PET recognizing that insiders were ultimately interested in whether it was winning the policy “public relations” battle on how the public generally viewed “their” policy, I decided to adopt a “policy image” as an “outside influence” variable. Further, I recognized that as I was only interested in the interest groups “outside” influence with the broader political system I decided that it was sufficient to measure the salience of the issue and its tone in relation to the interest group’s position over time.

PET with regard to the connection between the subsystem and the macropolitical system conceptualizes multiple venues as the key institutional feature that brings about policy change. Once the policy image escapes the control of the subsystem, actors in different venues not under the influence of the subsystem could choose to intervene and change policy. A key element to note here is the fact that an alternate venue would normally only be attracted to act on an issue once it has attracted sufficient attention and the tone of the policy image has changed. The alternate venues variable I believe reflects the concept of the separation of powers common in liberal democracies and I believe it provides a sound representation of the Irish political system’s institutional basis. On this basis I chose multiple venues as a variable.

The pilot case study, as I mentioned above, appeared to indicate that policy was decided in two general arenas: an “inside” linked multi-level arena or “subsystem” where it appeared to be initially controlled and an “outside” arena or “macropolitical system” that encapsulated public opinion, the media and the broader political system. As we can see above, ACT largely provides explanations for policy change arising from within a multiple level “advocacy coalition” subsystem. Its recognition of the broader “outside” arena as we saw above is less developed. On the other hand, PET for the most part, deals
with the impact of the "outside" arena through examining the role of institutions, agenda setting and public opinion through the policy image and venue change concepts in the macropolitical arena. Its recognition of the "inside" arena of the subsystem is less developed. The theoretical contribution of this research is to use in a new way the particular variables of these extant theories to explain the causes of policy change.

Figure 8.1 A Multi-Level Policy Process

The above diagram is a visual representation of the developed theory. Following Olson and Schattschneider, the interest group forms a policy subsystem with actors who are influential in the policy decision venue. This subsystem attempts to capture the policy under its control. The bi-directional arrow indicates the multi-linked arena nature of the subsystem in that some members of the subsystem will also belong to the decision-making venue. At an early stage of the policy's development, the subsystem may engage in some form of "outside" influence, through media briefings etc., in order to persuade
fringe subsystem members and/or convince the public of the merits of their favoured policy. If the subsystem is successful in achieving its policy aims, it will generally continue to exert influence through both channels, by lobbying politicians and commenting in the media. If the subsystem is unable to achieve its desired policy in the current venue, it may appeal to different venues in the hope that they are more amenable to its policy wishes. This is indicated by the dotted arrows to the alternate venues.

If the subsystem successfully achieves its policy aims, as time passes, the public becomes aware of the policy’s limitations. Consequently, signals begin to emerge from the public through the media and sympathetic political representatives with the result that the policy image deteriorates. The policy then moves onto the agenda of various alternate venues. The subsystem responds by using its inside influence in the current venue to attempt to maintain the current policy position and by attempting to “privatise” the issue through the outside influence “policy image” mechanism. It may also respond by allowing some incremental change in policy, in an attempt to mollify the opposition and give the impression that the situation has been rectified in the hope that the issue moves off the agenda. However, if the policy image continues to decline and the issue stays on the agenda, actors in different venues become involved and because the subsystem may have less influence in the new venue and due to the cognitive basis of decision making, the policy punctuates. However, if the subsystem is so embedded in the initial venue, and/or so influential, then the decision of the alternative venue may not be binding and the policy may not change.

To conclude, where a strong interest group is evident in a policy area, it tries to influence policy primarily through two means: A private or inside channel where it forms relationships with those who deal with the issue in an official capacity or who have influence over its formation; and a second public channel, where the interest group, using its resources, attempts to influence how the public views the policy it wishes to control. The above model adds to the theoretical development of policy process theory in that it provides a comprehensive way of conceiving the evolution of policy in liberal
democracies and it addresses both major channels of policy change. The present theory builds upon the initial insights of Schattschneider and Olson that indicated that policy could to a large degree be decided within a subsystem. However, it also adopts Baumgartner and Jones insight that policy can also be decided by forces that work on the outside of the subsystem.

8.2.2 Contribution 2 – Venue Change

This research highlights the role that influence plays in determining venue change. We saw in the taxi case study that venues changed regularly, but in the consultant case study, no “binding” venue change occurred despite a small number of attempts. This indicates that some groups may be able to control the policy venue to such an extent so as to stifle policy change. It shows that policy can punctuate but that this is more likely to occur in a policy arena where the controlling interest group is less influential. On the evidence of the two case studies, I empirically highlight that influential interest groups may be able to maintain their advantageous positions indefinitely due to their influence over a particular policy venue. Schattschneider (1960; 34) stated 55 years ago “The flaw in the pluralist heaven is that the heavenly chorus sings with a strong upper-class accent”: From the evidence of the two case studies in this research; there would appear to be some truth in that statement and consequently indicates that influence and venue change are an area that may be ripe for further empirical analysis and theoretical development.

8.2.3 Contribution 3 – A More Comprehensive Measure of Influence

Lowery (2013; 19) notes that

Influence – in all its forms – is very complex and hard to observe. At best, our research designs capture only brief snapshots – however important - of influence in democratic systems

Leech (2010; 541) also notes that
...too little work has been done on interest group efforts to affect the agenda of these decision-making bodies or on interest groups efforts in the early stages of the policymaking process...Studies that show why an interest group chose this tactic rather than that one, or studies that show interest groups succeeding in getting issues on the agenda or shifting the way an issue was framed are still likely to be greeted with the question “OK, but what was the outcome?” And yet surveys of interest group behaviour repeatedly find that organisations spend a vast amount of time on these earlier tactics; it is unwise for scholars to ignore their possible effects.

Lowery (2013; 5) further notes that “most studies of lobbying focus on a single decision” and he cites as one of the most important exceptions in this regard Wright’s (2004) study of U.S. tobacco policy. Wright uses quantitative data covering 74 roll call votes covering a 20 year period. I believed from the start of this research that an analysis of one policy decision at one particular point in time was inadequate as it would only capture a small amount of the explanatory forces. In this research, I cover, in-depth, two policy areas over 40+ year periods analyzing numerous policy decisions and interactions. The research examines the tactics the interest groups’ use in their attempts to affect the agenda of decision-making bodies and their efforts in the early stages of the policymaking process; it finds which tactics were effective and why; how venues changed and ultimately how and why policy changed.

Důr (2008; 1220) states that influence

...can be understood both as a property or capability of an actor and as a causal concept (Hart 1976). Depending on which conceptualization is chosen, researchers are pushed either to study the resources or the impact of an actor on outcomes.

In this research, I examine the actors’ impact outcomes in Chapters 5&6 and compare their resources in Chapter 7. Following Morriss (2002), I do not equate influence with resources but use them as a useful means of assessing and understanding influence.
This study makes a methodological contribution to knowledge by developing a research design that more fully captures the constituent parts of the influence process through its examination over multiple periods of time of actors’ impact on outcomes and through the examination of their different resources. As Lowery noted above, the extant research designs examining influence only capture “brief snapshots” of the variable, however this research examines influence with a very long exposure. The long-term nature of these case studies provides a greater evidential database upon which to draw assessment of influence and consequently, a more evidentially sound empirical measurement of influence can be gained than heretofore.

In examining the influence variable I used three methods of measurement: “process tracing”, “attributed influence” and “policy image”. The longitudinal nature of the case studies required that I adapt them in novel ways. Firstly, in using the process tracing method, I followed Dür’s recommendation for assessing the actors’ influence using the following 6 criteria; (1) identifying the actors’ preferences; (2) their attempts to influence policy; (3) their access to decision makers; (4) the decision-makers responses to these attempts; (5) the degree to which groups’ preferences are reflected in outcomes; and (6) the groups’ statements of satisfaction or dissatisfaction with the outcome. In collecting the data for this method, Dür (2008) primarily used material collected during interviews; for this research I searched a large amount of documentary evidence to assess the above criteria and I used interviews then to further supplement and strengthen the evidence. This allowed a deeper assessment of influence than is usual. Secondly, in using the “attributed influence” method, researchers normally use surveys to gather the data. Due to the longitudinal nature of the current case studies, I believed that the use of this method would be inappropriate. Consequently, I attempted to interview actors from the different periods of the cases to get their assessment of different actors influence. Further, I supplemented these assessments with contemporary assessments of influence that I found through the documentary analysis. This empirical method has not been formally identified before as far as I can gather and consequently is a contribution to how influence can be assessed empirically. The above methodological innovations in
assessing influence allowed me to increase the depth of data gathering than had occurred in other studies. Finally in using the policy image variable as a measure of “outside influence”, although similar measures have been used in PET studies, it is the first time I believe that it has been used in conjunction with the aforementioned methods of influence assessment.

8.2.4 Contribution 4 – Interest Groups and Policy Determination in the Irish Political System

The fourth contribution of this research is the knowledge gained of our understanding of the role of interest groups in determining policy in the Irish political system. As we saw in the literature review, research on interest groups in the Irish political system has mainly been of a broad and descriptive nature (See Murphy 2010 for review). For the first time two in-depth, longitudinal case studies examining the role of interest groups and institutions of the Irish political system have been researched. No other longitudinal in-depth analysis of the Irish policy making system, of this nature has been conducted that I am aware of. The case studies highlight the various strengths and weaknesses of the institutions of the Irish State in forming policy in a domain where there is evidence of an influential interest group.

The empirical contributions that we can draw from the case studies are that the two interest groups are able to exert different levels of influence over policy. The medical consultants maintain a high level of influence over the approximately 40 years of the case study. They first request the “common contract” in 1968 and move steadily towards achieving that goal until a new government, elected in 1973, attempts to curtail their private practice. The consultants display an impressive amount of influence when they successfully fend off this threat; however it stalls the negotiation of the common contract for the lifetime of the government. With a new government in 1977, negotiations resume and the consultants achieve a contract in 1981 that is particularly favourable to them,
especially with regard to private practice. Every government since then has tried to reassert some control over this element of their contract, but with only limited success.

Over a similar period the taxi drivers starting from a position of little influence, progress to a situation where they achieve and maintain their policy goal for approximately 20 years. However, due to their inability to read the political situation, they see their influence decline dramatically and precipitously in 2000. They first start looking for a cap on licences in the early 1960’s. In these early years they have little influence and display signs of being politically naïve and inept. However, over time they become better organised and more politically astute, so much so that they achieve their major policy goal in the late 1970’s. They maintain this position throughout the uneventful decade of the 1980’s. However, the economic growth of the Celtic Tiger period evident from the late 1980’s placed an evident strain on the drivers’ desired licence cap policy in every year of the 1990’s. The taxi drivers were able to fend off considerable pressure to introduce new taxis during this period. However, their influence collapsed in 2000 when practically all restrictions on issuing licences were removed.

The interest groups are able to control policy due to their influence in Irish society. We clearly saw in Chapter 7 that the different interest groups had different levels of influence resources and as a consequence exerted different levels of influence. The consultants exerted considerably more influence over a broader swathe of policy than the taxi drivers. They were so influential that they were able to dominate negotiations regarding their employment conditions for the whole period of the case study. They further had the influence to largely determine the format of those negotiations. If they didn’t agree with the format, the negotiations didn’t take place and nothing could be changed.

The consultants displayed a high level of influence in all six influence bases while the taxi drivers’ exhibit influence in only three. Further, in each of those three bases, the consultants displayed a greater level of influence than the drivers. From this we saw that the consultants influence rests on a much secureer basis than the taxi drivers.
Consequently, the consultants are able to determine outcomes over a broader expanse of key national policy. They are also able to exert this influence over a considerable period of time and against many challenges. The taxi drivers use their narrower influence base to good effect, however, their influence covers a relatively small span of transport policy. They are unable to stop hackney licences and some taxi licences being issued in the 1990’s and they generally fail to broaden the debate to include other modes of public transport. When their influence comes under pressure, they are able to fight off opposition for a reasonably impressive period of time but ultimately they overplay their hand and lose badly. We can conclude that the consultants displayed a greater level of influence over outcomes than the taxi drivers. I further conclude, particularly in the taxi case, but also to a much smaller degree in the consultants’ case that each interest group’s level of influence varies over the course of the case study.

The Irish Political System - Theoretical and Applied Conclusions

In the literature review, we saw that JS Mill was concerned that representative government wouldn’t have the capacity to design proper policy and that it would come under the influence of interests that were not identical to the welfare of the society. We see from both case studies that the Irish political system meets the needs of particular sectors of society at the expense of the rest of that society, for example Fingleton, Evans and Hogan (1998; 11) estimated the cost to the economy of the restriction on taxi licences at £150m. Further, particularly in the consultants’ case, we saw that it lacks the institutional capacity to design and implement a satisfactory hospital management system. As mentioned above, with regard to the dynamics of policy change in the Irish political system, we see that policy coheres with punctuated equilibrium theory in the taxi case study but not in the consultant case study. The key difference between the two cases was the difference in influence between the two interest groups. We saw from the consultant case study that where an interest group is especially influential, it can prevent, at least in the medium term, a punctuation occurring. The key applied contribution
relating to the Irish political system is that there appears to be a dearth of venues, in which interest group power can be broken down.

We saw in the literature review, that the IAD Framework set out different broad categories of analysis and I identified the current research within a "multi-linked" system where policy making occurs. In the case study and findings chapters, we saw that the contributions of this research are primarily located in the constitutional and collective choice situations.

Examining the constitutional area, we saw in the case studies that policy was predominantly decided in the executive venue. In the taxi case study, some policy was decided in the local authority venue but this could be and was curtailed by the executive venue if it strayed beyond policy that the executive was comfortable with. The judicial venue was asked to intervene in the taxi case sporadically and did so decisively at important policy junctures. In the consultant case, policy never moved outside the executive venue. The evidence from the case studies coheres with the research surveyed on the nature of the Irish political system in chapter 4 which finds that effectively only two venues, with strong and distinct overlapping powers exist in the Irish political system: the executive and the judicial venues. The legislative and local authority venues are generally impotent, while strong independent regulators do not exist. We know from our survey of the literature in chapter 2 that punctuated equilibrium theory indicates that multiple different venues are crucial in enabling the breakdown of interest group power over policy. There is evidently a lack of alternate venues provide by the Irish policy making system and a key conclusion of this research is that reform should take place to increase the number of independent venues in the Irish political system.

With regard to the collective choice arena we saw in the taxi case, that the broad rules governing the taxi market are set out in the primary legislation of section 82 of the Road Traffic Act 1962. The Act sets out the general enabling provisions from which the operational rules are determined. It is evident from the case study that the executive, the
legislature and the local authority venues were all captured by the interest group. Solutions to this problem, in addition to increasing the number of venues that could be examined include reform of the electoral system, extension of competition law to cover state agents and the strengthening of the independence of regulators.

In the area of health policy management there appears to be two major "collective situation" applied conclusions. Firstly, the design and implementation phase of health policy reform is longer than the 5-year political cycle and secondly, there appears to be a lack of policy expertise surrounding the health system. Particularly, during the 2000's, there was a broad consensus in the legislature that the consultants' contract needed reform, however, the legislature appeared to be incapable of setting out the broad principles of policy to do this. Further, as noted in Chapter 4, legislation is rarely instigated in the legislature; practically all of it originating in the executive. Again, a more powerful legislature where the elected TDs actually design, debate and scrutinize legislation could set in place the broad principles for a new type of health system.

8.3 Further Research

In this section I outline areas for further research in the policy process area and then identify from the findings of the case studies, issues with Irish institutional design where further research could be undertaken with the aim of improving the Irish policy making system.

Examining first further policy process research we see that given that a limitation of this research is that it only covers two sectors of the economy, it would be most interesting to conduct further similar case studies in relevant areas. The continuous watering down, since its introduction in 2011, of the provisions of the proposed legal services bill, seemingly in favour of the legal profession, would appear to make a fascinating case study of an apparently powerful lobby group. On cursory analysis, there is very little media attention on the issue and no venue change appears to have occurred. There are
further sectors that would also yield fruitful analysis; the dental profession, the pharmaceutical profession, the pharmaceutical industry, the agricultural lobby, the alcoholic beverage industry, and the retail sector. Further, an investigation into the nexus between; the political system, the banking sector and the construction industry that was central to the 2008 economic crisis could be very rewarding. Each of the above could provide fascinating insights into the policy process in Ireland.

Further research could also be conducted in further improving the theoretical model I developed to conduct this research. I believe that influence as a core variable on the "inside" venue provides a very strong foundation on which to develop a model of analysis of the subsystem in the policy process. The trend in recent years of scholars returning to influence as a focus of analysis in the interest group and policy process research areas is to be welcomed. The data collection problems with regard to the influence variable are enormous but further carefully designed research methodologies can help in overcoming them. As we saw from Ceccoli’s (2003) study of AIDS, problems only remain intractable if we do not research them.

8.4 Limitations of the Research Process and Findings

A limitation of the current research is that it examines the policy process in only two distinct domains of Irish policy. It is therefore difficult to know how far the findings can be generalised. It is important to remember that the case studies examine policy where there is evidence of an interest group seeking a "private good" policy aim. Any findings therefore must be carefully applied to the broader policy process. However, the fact that they are domains where the interest groups exert significant influence is important. It reflects a weakness in the Irish institutional arrangement whereby policy for long periods can remain dysfunctional.

With regard to the framework developed in this research to examine the policy process, it is important note that is only applicable to liberal democratic systems that have
separation of powers as an institutional feature. A further issue with the framework is possibly the under-specification of variables on the “inside” arena. I have taken a very broad conception of the influence variable. The reason for this is that due to the long-term nature of the case studies while allowing a more detailed and complete view of the role of influence in policymaking, required that an enormous amount of data be collected. Furthermore, the data collection and interpretation for the policy image variable was already rather burdensome. This limited somewhat my capacity to develop more refined subsystem variables. Leech (2010; 540) quotes Smith (1995; 94-5) who listed twelve possible explanations for policy change. She (2010; 540) lists “differences in the visibility, technicality, partisanship, and salience of the issue, how costs and benefits were distributed, the degree of organised opposition, several electoral variables and public opinion.” As I said, given the data burden, I could not possibly develop a greater number of variables; however, I believe that the choice of the case study methodology and the breadth of the conception of the influence variable allowed the above to be reasonably well captured.

Given the amount of data to be collected over such a long period, it is only to be expected that some data gaps would occur in the case studies. George and Bennett, and Důr warn that it is practically impossible to collect a complete data set. It must be noted that data was harder to come by in the consultants’ case study. As we saw in the policy image analysis, the consultants’ contract was covered to a lesser degree by both the newspaper and the Oireachtas. Further, there was very little material on the consultants’ contract available in the National Archive. The paucity of data was somewhat overcome by the number of reports, books and academic articles on the health system. The general data problems were also somewhat ameliorated by the length of the cases studies which allowed an informed view to be established on areas where there may have been a paucity of data.
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Appendices
Appendix I