

The impact of Private Members' Bills on legislative and policy outcomes

Dr Liam Weeks

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Abstract

This report provides an empirical assessment of the impact of private members' bills (PMBs) in the Irish parliament on legislative and policy outcomes. Using a variety of quantitative and qualitative methods, we find that although only a tiny proportion of PMBs have a direct impact in terms of being enacted into legislation, other forms of impact exist for PMBs. A unique dataset of all PMBs passing through parliament between 2011 and 2022 is compiled, and we show that PMBs can be *influencers* on government legislation, can potentially signal the policy priorities of parties, can draw public attention to an issue and impact on media coverage of an issue and their sponsor, and can provide an electoral boost for parliamentarians. Considering *influencer* PMBs alone, we find that one in ten government bills have been influenced by such PMBs. We conclude the report with detailed case studies of four PMBs, all of which were highly impactful, two becoming law and two directly influencing government legislation.

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The views and opinions expressed in this report, and any mistakes, should be attributed entirely to the author and not to any other individual or organisation.

Executive summary

This report presents the results of a research project into the impact of private members' bills in the Houses of the Oireachtas over an eleven-year period (2011-'22). It was commissioned by the Oireachtas Library and Research Service, with three aims in mind. The first is to assess the impact of private members' bills (PMBs) on legislative and policy outcomes in Ireland; the second to explain why some PMBs are more impactful than others; and the third is to use the research to determine what could improve the process around PMBs to facilitate the contribution they make to parliamentary democracy.

Context

The right of elected members to propose legislation is fundamental to parliamentary democracy, with private members' bills (PMBs) one of the oldest instruments at the disposal of parliamentarians.

Historically, the number of PMBs both sponsored and enacted in the Irish parliament has been very low, but considerable change has been underway since 2011. There have been more PMBs sponsored in the Houses of the Oireachtas since the beginning of 2011 than in the preceding nine decades (see Section 1) and, while enactment remains rare, there have been more PMBs enacted since 2010 than in the preceding seven decades.

Some view this abundance of PMBs with little expectation of enactment as both an annoyance and a hindrance to the work of parliament, proving a strain on resources. This interpretation, however, views impact as equating to enactment. The key aim of this study is to assess the other potential impacts of PMBs.

Further, the surge in PMB activity came so quickly that parliament had little time to adapt to the new demands posed by the significantly large volume of legislation. It is this changing legislative environment and the challenges it brings that is another motivation for this study.

Methods and data

The aim of the project is to assess the impact of PMBs. With impact being a complex and multi-faceted concept, its operationalisation is not a straightforward matter. Consequently, the methodological approach taken is to devise several different measures of impact (drawing on the literature set out in Section 1). These are: impact on legislation, impact on a government's policy focus, impact on public awareness of an issue, and impact on parliamentarians' media and electoral profiles.

A mixed methods approach, using a combination of qualitative and quantitative methods, is adopted (described in section 1 and in more detail in each of the sections of this report). Section 3 applies quantitative methods to the dataset to assess the influence PMBs can have on government legislation (section 3). The quantitative methods used are statistical tests to determine the level of association between a range of factors to do with the impact of PMBs, including a number of tests of covariance. These are used when considering the impact on policy focus (section 4), public awareness (section 5), and issue ownership and sponsor's profile (section 6). The main qualitative dimension to this study, comes in the form of three case studies, which highlight examples of impactful PMBs (section 7). These are the Parole Bill 2016, the Children (Amendment) Bill 2020, and the Regulation of Lobbying (Amendment) Bill 2020 and Regulation of Lobbying (Post-Term Employment as Lobbyist) Bill 2020 (both the last two are examined together as a part of the same case).

The core dataset comprises data on all 883 PMBs that were introduced in the Oireachtas (both Dáil and Seanad) from the election of the 31st Dáil on 25 February 2011 until 31 December 2022, during the term of the 33rd Dáil. For each PMB data was gathered on the stage reached in the legislative process, legislative outcome (enacted, defeated, lapsed, restored), key policy-code, main sponsors affiliation, background of main sponsor, and electoral performance. Policy codes were sourced by combining the dataset with a dataset compiled by the Irish Policy Agendas Project (Dr Conor Little at the University of Limerick). To measure public impact and issue ownership, data was sourced from a news search engine (Factiva). The final source of data comprises ten interviews with parliamentarians, and parliamentary and departmental officials who worked with relevant government legislation. These were primarily used for the three case studies.

Summary of findings

The role of the PMB as a parliamentary instrument has been expanded, and this does not appear to be just a temporary phenomenon or a product of unsettled political times. More PMBs are sponsored, and more parliamentary time is spent considering PMBs.

- More PMBs have been sponsored (more than 900) since 2011 than during the preceding 90 years of parliament (539), and this is the case for all three Dáileanna/Seanad. There are a number of reasons for this, one being the upheaval in the political landscape that took place after the 2011 election. However, as the political climate has settled somewhat since, the appetite for PMBs amongst parliamentarians does not appear to have diminished.

PMBs are progressing further in the legislative process. Data in section 2 shows that:

- Forty (40) per cent of PMBs were approved at second stage in either House in the 32nd Dáil/25th Seanad and this approval rate has continued into the 33rd Dáil/26th Seanad (approximately 38% at time of writing), in spite of there no longer being a minority government. This compares to 14% in the 31st Dáil/24th Seanad and to under 10%, in previous Dáileanna. Second Stage is a decisive stage during which the general principle (policy) underpinning a bill is considered and approved/defeated.¹
- Defeat is increasingly a relatively infrequent outcome for PMBs from 2011-2022. Only 11% of all PMBs introduced were defeated at second stage in the 32nd Dáil/Seanad (9% if we exclude three PMBs which had already been approved by the other House). Twenty-six (26) per cent were defeated at second stage in the previous Dáil/Seanad and at the end of 2022 only 7% of all PMBs had been defeated in the present Dáil/Seanad.
- While only a tiny proportion of PMBs introduced are enacted, more PMBs have become law – 22 have been enacted since 2011, more than the total for the preceding seventy years. While some might see this increase as a natural consequence of the rise in the number of PMBs being sponsored, this is not an inevitable development.

While the numbers of PMBs and time spent debating PMBs have increased, it remains the case that hundreds of PMBs make very little progress in parliament and most of those approved at second stage, including many which have undergone detailed scrutiny in the Dáil, are not taken at formal committee stage:

- Fifty-eight (58) per cent of PMBs introduced during the 31st Dáil/24th Seanad and 41% introduced during the 32nd Dáil/25th Seanad lapsed while awaiting a second-stage debate. At the end of 2022, 113 of the 212 on the then Order Papers in the 33rd Dáil/26th Seanad were awaiting a second-stage debate.

1 The legislative process for PMBs is described in Section 2.1 and Figure 1 of this Report.

Many PMBs which are approved at second stage remain at this point in the legislative process – awaiting referral to committee or awaiting a debate at formal committee stage – a trend which has continued in spite of the introduction of detailed scrutiny to the legislative process in the Dáil (see Table 2, Section 2).

If few PMBs are enacted, in spite of this increased parliamentary activity, the question of their impact on legislative and policy outcomes is pertinent. This empirical analysis of 883 PMBs finds that the outcome for PMBs is not binary where enactment equals success and non-enactment equals failure.

- 1.1 Firstly, the study has identified many *influencer* PMBs. Section 3 shows that between 2011 and 2022, almost 1 in 10 government bills were influenced by 58 influencer PMBs that did not become law. The ratio of PMBs with a legislative impact (meaning enacted PMBs and influencer PMBs) to government bills was 1:8. This suggests that governments are no longer immune to being convinced of the merits of a PMB. A government may vote to defeat a PMB, delay its passage or allow it to languish in the legislative process, but this does not appear to mean that a PMB is having no impact. The case studies of two PMBs on lobbying in section 7 demonstrates that while governments still monopolise the legislative process, governments are (whether implicitly or explicitly) open to persuasion through the medium of a PMB.
- 1.2 The study also finds that PMBs have impacts beyond directly affecting legislation: PMBs do appear to raise public awareness of issues. Through a sample study, it is found that an issue covered by a PMB receives almost twice as much media coverage when it becomes the focus of such a bill than prior to the PMB's introduction (Section 5).
- 1.3 Related to this, PMBs may have a direct impact for parliamentarians. The study finds that sponsoring a PMB can both increase their media profile and give TDs an electoral boost; greater PMB activity (in terms of bill sponsorship) is associated with greater media coverage of the PMB's sponsors, and also a higher vote return at the next election (section 6). Both these impacts hold their influence even when other potential factors are controlled for.
- 1.4 While PMBs do not appear to signal 'issue ownership' for individual TDs or Senators (whereby the issue at the centre of the PMB is associated with an individual TD or Senator), it was shown that in some cases PMBs do signal the policy priorities of parties in that parties are more likely to sponsor PMBs in particular policy areas they deem to be of greater importance (section 6).
- 1.5 The study found only very limited evidence to suggest that PMBs collectively affect the Government's overall policy focus and this limited effect was confined to specific policy topics (law and crime, banking, and commerce). In fact, the overall policy focus of government, as measured by the volume of legislative activity in particular areas, does not closely mirror that of PMBs introduced in previous years. In recent years PMBs are more likely to focus on some different policy topics to those of government bills.

The study also identifies factors associated with PMBs that advance further in the legislative process and with influencer PMBs.

- 1.6 First, PMBs sponsored by members with a professional legal background tend to advance further in the legislative process and are over-represented among PMBs that become law. This is the strongest predictor of a PMB being approved at the second stage (section 2).
- 1.7 A legal background is also associated with sponsors of influencer PMBs: influencer PMBs are likely to be sponsored by legislatively active members (i.e., those who sponsor more PMBs in general). Influencer PMBs are 50% more likely to be sponsored by a member with a legal background.

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- 1.8 Second, in terms of policy topics, PMBs which address policy issues related to “law and crime” have had a greater record of advancement in the legislative process and of enactment, while PMBs addressing housing and planning were least likely to win approval at second stage and least likely to be enacted.
- 1.9 Influencer PMBs seem to focus on different policy topics: across all three Dáileanna, civil rights legislation was most frequently affected by an influencer PMB with planning and housing PMBs the next most influential. Planning and housing was the only policy topic in which government legislation was influenced across all three Dáileanna (to end 2022).
- 1.10 Third, influencer PMBs are equally likely to emerge from the Dáil or the Seanad and appear equally likely to occur during a minority or a majority government.
- 1.11 Fourth, PMBs sponsored by parties or members which clearly occupy a different policy space to those in government tend to make less progress in the legislative process and, not surprisingly, are less likely to be enacted.² Likewise, PMBs sponsored by those clearly occupying a different policy space are less likely to become influencer PMBs.³
- 1.12 Fifth, while detailed scrutiny increases the amount of time and focus on a PMB, it does not (to end 2022) appear to make a PMB more likely to progress further in the legislative process.
- 1.13 Sixth, influencer bills identified are not necessarily those that progress further in the legislative process [although this may change when detailed scrutiny has been in place for a longer period of time].

What all of this shows is that there are two broad categories of impacts associated with PMBs: (1) instrumental and (2) expressive.

1. Instrumental impacts are the direct outcomes parliamentarians achieve with a PMB, including having a bill enacted, getting it to be debated at committee level, having it directly influence a government bill, or even winning them more votes.
2. Expressive means that the sponsors of PMBs are not specifically concerned with direct outcomes or change. For them, the functions of PMBs are intrinsic in that the very presence of the PMB is an impact. For example, the aim of sponsoring a bill might be to highlight an issue or to indicate the parliamentarian’s legislative activity. Regardless of the PMB’s chances of being enacted, some parliamentarians might feel it is their obligation to sponsor legislation, and so a PMB is an expression of this role. Likewise, parliamentarians or parties might also wish to indicate their policy priorities with a PMB. This is an expressive impact.

2 This is true for Sinn Féin and for independent members.

3 Section 3.2.2 below shows that the party with the most impact relative to its size over the period is the Labour Party which has sponsored 18% of all *influencer PMBs* despite having a small parliamentary party in the 32nd and 33rd Dáileanna.

Implications of the report's findings for the parliamentary process around PMBs

Changes to the legislative process to accommodate the changed use of PMBs have been made (see section 2.1) and additional resources have been provided for both parliamentarians and parliamentary staff since 2016. With the increase in the number of seats in the Dáil, this expansion of the PMB role is likely to continue in the coming years.

On the basis of the findings in this study, we considered whether the process around private members' bills could be enhanced to ensure their contribution to Parliament's legislative and policy role and to representative democracy. If PMBs are deemed as an important part of the legislative process, and treated as such, there may be further implications for parliamentary procedure, parliamentary outreach and for the distribution of resources within parliament.

In the first instance, in spite of changes to the legislative process and the expanded role of PMBs, the Houses of the Oireachtas website's record of Bills does not reflect these changes. The conduct of detailed scrutiny of a PMB by a committee is not recorded, and nor is it linked to, the entry on a PMB. To ensure that the Oireachtas website fully reflects the work of parliament and its committees, the detailed scrutiny stage (including links to committee meetings and reports) should be an integral part of the entry for each PMB (as is each other stage of the legislative process). (Recommendation 1)

In terms of resources, there are of course limitations, so there are some important questions to tackle in this area:

- a. With many PMBs being approved at second stage, more consideration could be given to resources and time for committees both at detailed scrutiny and the committee stage of the legislative process (Recommendation 2). Since detailed scrutiny was introduced in 2016, 50 PMBs have been through this process (with a further 19 undergoing it at time of writing), far fewer than the number (more than 200 PMBs) that were approved at second stage in this time. The Memo of Understanding (section 2.3 below), and subsequent changes to Standing Orders in 2019, places the onus on the sponsor to request detailed scrutiny. It is unclear whether the lowish rate of progression from approval at second stage to detailed scrutiny is because sponsors choose not to progress a PMB, committees' agendas are too full, or because sponsors are not entirely clear of how the process works. In case it is the latter, the process should be very clearly communicated to all members, party and Oireachtas staff.
- b. At the same time, that 40% of PMBs lapse at the second stage may not seem like an efficient use of the time and resources it takes to draft a bill. More could be done to either help these PMBs progress (as suggested above) or, in order to free up resources, consideration could be given to creating a different formal instrument through which to express and debate the policy point being made prior to the formal drafting process (such as debating a general scheme of a PMB). (Recommendation 3).

In terms of specific resources to assist with PMBs, it was found that parliamentarians having a legal background/training has an important influence on the progress of PMBs in the legislative process, whether a PMB is enacted *and* the extent to which a PMB is an *influencer PMB*. This means that assistance with researching the legal context to a policy idea, and assistance with drafting PMBs, which have been introduced through the Office of Parliamentary Legal Advisers (OPLA), are important. Given the point made at recommendation 3 and given the time and resources it takes to fully draft a PMB, assistance with the early drafting of the legal context to the policy idea is equally important to assistance with the formal drafting of a PMB. (Recommendation/Observation 4).

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Although the number of PMBs being sponsored has increased, the proportion of PMBs being enacted as law is still very low at just 2.5% for the period studied. This does not mean that the other 97.5% of PMBs are deemed a waste of time; we show that 58 PMBs over an eleven-year period are influencers, that is, they have a direct impact on government legislation (section 3) and that PMBs do raise public awareness of issues (section 6). Taking into account the discussed strain on resources, having both a PMB and a government bill on a similar topic might seem somewhat inefficient, or not the best use of the legislature's resources. Consideration could be given to creating a formal mechanism whereby a PMB with a legislative influence is recognised, and/or to establishing a basis to facilitate its incorporation into the government's legislative agenda (Recommendation 5).

Related to this, one reason why some PMBs are not progressing far in the legislative process is because enactment may not be the prime intention of their sponsors. One of the broad impacts of PMBs is expressive, that is, the motive of sponsoring a PMB can be intrinsic to the bills' very sponsorship. This is not unique to the Oireachtas, as in other parliaments MPs introduce PMBs to signal something or to air constituency grievances. Consideration could be given to incentivising an alternative avenue for sponsors to fulfil these expressive aims (Recommendation 6) due to the aforementioned strain on resources caused by the large number of PMBs.

Section 1: Introduction and context

1.0 Introduction

The purpose of this study, commissioned by the Oireachtas Library and Research Service, is threefold:

1. To assess the impact of private members' bills (PMBs) on legislative and policy outcomes in Ireland.
2. To identify the factors that explain why some PMBs appear to have a greater impact than others.
3. To use findings from 1 and 2 to draw out any factors which could enhance the process around private members' bills to ensure their contribution to Parliament's legislative and policy role and to representative democracy.

This section lays out the context of this study, with a discussion of the role of private members' bills both in the Irish and international context. It considers what the academic literature has to say on the normative value of PMBs, how they can have an impact, and the wider intentions of their sponsors. This context and literature review form the background for the construction of the research design to assess the impact of PMBs. The aims and methodology for each section are outlined, including a discussion of the types of data used and the different ways in which the operationalisation of impact can be measured.

1.1 Context – Increase in popularity of the PMB in the Irish parliament

Within the relevant political science literature, the Dáil has historically attracted criticism for a failure to fulfil its parliamentary role (Gallagher 2018: 167). It has been described as 'puny', 'supine', and 'woefully inadequate' (Ward 1974: 241; Chubb 1992: 189; Dinan 1986: 71), with the Seanad seen as little better (Murphy 2021). The primary grievance of these critics concerned the ineptitude of the parliament vis-à-vis government, aspects of which include that almost all legislation originates from government; parliamentarians vote in a very disciplined pattern along party lines resulting in a clear government versus opposition cleavage; and government fully controlled parliament's agenda, with the level of scrutiny of the executive by parliament being limited in its effectiveness.

Something, however, has been changing since 2011. Both parliament and parliamentarians have begun to exert a little more independence, procedures have changed to facilitate this, and there seems to be a refining of the role of parliament, most particularly during a four-year period of minority government in the 32nd Dáil (see special issue of *Administration* (2017: 65(2)) on such reforms, and Lynch and MacCarthaigh (2023)). One clear and obvious change that has been taking place concerns private members' bills (hereinafter PMBs), which are bills introduced by parliamentarians who are not in government. The number of these PMBs being sponsored has increased quite dramatically in recent years, although the number becoming legislation has not increased in the same proportion, resulting in some questioning the merits of these developments.⁴ One of the primary reasons for the commissioning of this report is to assess the significance of this increased presence of PMBs on the parliamentary landscape.

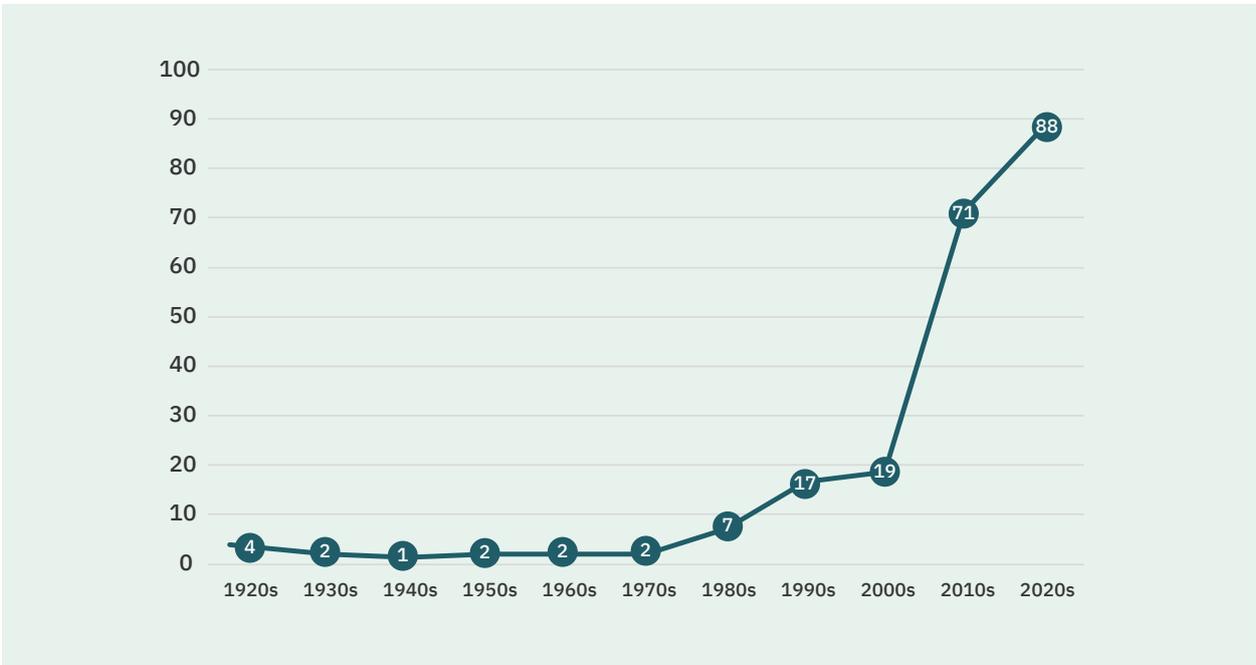
⁴ See, for example, Elaine Loughlin, 'Legislating and the art of preventing others from getting what they want', *Irish Examiner*, 20 March 2018, and Elaine Loughlin, 'Review of system on the cards amid criticism of 'do-nothing' Dáil', *Irish Examiner*, 17 April 2017

Historically, PMBs in the Irish parliament were few in number, both in terms of those published and those enacted, because the understanding in the Irish political system was that law-making was the prerogative of the government. Figure 1, which details the mean annual number of PMBs published per decade in the Oireachtas, shows that until the 1980s the average number of PMBs introduced per year in the Dáil and Seanad combined was as low as two; the number enacted was even lower, at approximately two per decade. While PMB activity remained low, it increased slightly in the 1980s when there was an annual mean of seven PMBs introduced and increased further in the 1990s and 2000s. The mean number of PMBs introduced annually during 2000-2010 was twenty. With this came a slight increase in the numbers of PMBs enacted; there were almost as many PMBs enacted between 1990 and 2010 than in the previous five decades.

This low level of PMB activity was similar in some, though by no means all, European parliamentary democracies. A 1990s study of PMBs in western European democracies found that the passage rate of private members’ bills (from 1971 to 1990) ranged from 0 to 46%, with a median of 14% (Mattson 1995: 478). It is quite noticeable that no PMBs were enacted in Ireland in the two decades under observation, while it also had the lowest number of PMBs proposed (35 in 20 years). In this respect, the Oireachtas was a more ‘Westminster-style’ system than Westminster itself.⁵ In contrast, there were over 2,300 PMBs introduced in the Portuguese parliament, with 30% becoming law, and 1,320 in the UK, with 14% becoming law. In the latter case, many enacted PMBs originated from the government in cases where it ran out of time to introduce its own bill (Dixon 2004: 92).

However, matters changed considerably in the Irish parliament in the 2010s. In fact, there have been more PMBs sponsored in the Oireachtas since 2010 than in the 90 years preceding this. Similarly, there have been more PMBs enacted since 2010 than in the preceding seven decades (see Table 1).

Figure 1. Mean annual no. of PMBs published in Oireachtas per decade, 1920s-2020s



Note: the data for Figures 1 & Table 1 are as of December 2023.

5 The ‘Westminster model’ of government is an adversarial type of political system where, amongst other features, single-party majority government is the norm, and governments dominate parliament (Lijphart 1999).

Table 1. No. of PMBs published and enacted in Oireachtas, 2010-2023

| Year | PMBs published | PMBs enacted |
|------|----------------|--------------|
| 2010 | 22 | 0 |
| 2011 | 30 | 0 |
| 2012 | 64 | 0 |
| 2013 | 82 | 1 |
| 2014 | 72 | 1 |
| 2015 | 82 | 2 |
| 2016 | 85 | 0 |
| 2017 | 110 | 4 |
| 2018 | 96 | 5 |
| 2019 | 68 | 6 |
| 2020 | 42 | 1 |
| 2021 | 111 | 2 |
| 2022 | 56 | 0 |
| 2023 | 59 | 0 |

Some explanations have been offered for the increase in PMB activity in the Irish parliament since the 2000s and, more particularly, since 2011, with the primary factors being institutional and procedural:

- Firstly, parliamentary reform was high on the agenda of the 2011-2016 coalition government; it was elected during the financial crisis following an 'earthquake' general election which dramatically changed the party composition of the Dáil (Gallagher and Marsh 2011). More parliamentary time was allocated to non-government business; sponsors of PMBs were allotted a five-minute slot to discuss the intention of their bill at first stage after which the question is put 'to publish/not publish', and more PMBs were tabled for a second-stage debate. While in the past the opposition had little input into the governments' parliamentary agenda, in 2016 the Dáil (during a minority government) created a cross-party business committee to plan the parliamentary agenda by consensus and more plenary time was given to the debate of PMBs.
- Secondly, the large number of first-time TDs elected in 2011 (the election saw the largest turnover of TDs since the 1920s), combined with an appetite for political reform, contributed to a desire for greater PMB activity. Following on from this, the formation of a minority government in 2016 gave parliament, and PMBs, a new-found level of influence.
- Thirdly, individual parliamentarians outside of government historically had little or no facility to call on to assist with the drafting of a bill. This began to slowly change from 2005 onwards. Some additional resources were given to TDs and senators who wished to draft PMBs (in the form of a draw-down fund), and parliamentarians were allocated additional resources in the form of parliamentary and secretarial assistants and access to the newly established Oireachtas Research Service. In the 32nd Dáil, a Parliamentary Budget Office was established, and the Office of Parliamentary Legal Advisers was re-vamped and granted more resources, with one of its primary roles being to assist with the drafting of private members' legislation.

Whatever the reasons for the increase in PMB activity, they have now become a core feature of the parliamentary landscape. Where once parliamentarians outside of government might have been accused of being fairly pedestrian in terms of their legislative activity, it is fair to say that TDs and Senators now have more of an interest in parliamentary affairs than perhaps ever before. It might have been thought that this development would be lauded, but detractors of these changes claim that it is just window-dressing and that little has changed for the better.⁶ Rather than the increase in PMBs being seen as a positive development, such critics see this as a hindrance to the workings of the political system, as clogging up parliament's agenda, and especially since fewer than 3% of PMBs end up being enacted (at the most).⁷ The then government chief whip, Joe McHugh, echoed these concerns, claiming that 'it is not certain how many of them [PMBs] are capable of functioning as laws' (*Irish Examiner*, 20 March 2018).

This scrutiny of the normative value of PMBs makes it all the more imperative to have a study of PMBs beyond their enactment, to understand exactly what impact they have on the political system. This is the purpose of this study.

1.2 What are Members' goals with PMBs and how to assess for impact

This trend of high numbers of PMBs with little expectation of their enactment is not unique to Ireland. In Finland, a country with an open list electoral system similar in structure to the single transferable vote that has attracted comparison with Ireland, only 1.4% of the 21,402 PMBs introduced between 1945 and 2002 were enacted (Solvak and Pajala, 2016). Despite this, hundreds of private members' bills continue to be introduced in every session of the Finnish parliament.

Mattson refers to these bills as 'pseudolegislation', because 'knowing that these will have no realistic chances of becoming actual policy must mean that there are concealed motivations behind such activity other than the intention to regulate' (1995: 482). In fact, there is a general agreement in the academic literature that getting a PMB through parliament is not the sole intention of sponsors. For Dixon (2004: 89), who studies PMBs in the Australian parliament, 'the success or otherwise of PMBs cannot be measured merely in terms of the number passed into law. Unsuccessful proposals have their value'. Simply put, if it was not in their interests to introduce PMBs, parliamentarians would not do so. What then are these interests, motivations, and intentions?

A comparative study of the experience of PMBs in Hungary and Israel found that in the Israeli Knesset (where there are 1000s of PMBs introduced each year), 'MKs [Members of the Knesset] are more interested in drawing attention to their own personal legislative activity than in the actual advancement of legislation' (Nikolenyi and Friedberg 2019). Likewise, Cavari *et al.* (2023) state that MKs' main aim might just be to influence the government agenda. Dixon's study of PMBs in the Australian context (2004: 90) stated that such bills can be 'educative' by increasing public knowledge or discussion of a topic. This might particularly be the case concerning potentially divisive issues on which a government is unwilling to take the lead; for example, social policy issues such as contraception in the 1970s, abortion in the 1980s, and euthanasia in the 2020s. In other cases, government inactivity may have been due to ignorance or lack of awareness around a topic, with a PMB spurring it into action. Dixon (2004: 91) also argues that PMBs can be treated by parliamentarians as an opportunity to gain hands-on legislative experience regarding the drafting and sponsoring of a bill.

6 See for example, Elaine Loughlin, 'Legislating and the art of preventing others from getting what they want', *Irish Examiner*, 20 March 2018.

7 For a greater discussion of these developments, see L&RS Note, *Private Members' Bills: Admissibility, Government messages and detailed scrutiny*.
https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2019/2019-05-30_l-rs-note-private-members-bills-pmb-admissibility-government-messages-and-detailed-scrutiny-updated-note_en.pdf

A research brief prepared by the Oireachtas Library and Research Service drew on the motivations identified in international literature to propose five possible impacts of PMBs on legislative and policy outcomes (Brazier and Fox 2010; Lynch and Lawlor 2019):

1. Changing legislation and/or government policy.
2. Addressing a gap in the law.
3. Getting an issue discussed in parliament.
4. Raising publicity for an issue.
5. Acting as a response to public debate on an issue.

Most of these discussed impacts concern the legislative and policy process, but parliamentarians can have other goals in mind, such as to have a positive impact on their future electoral performance, if it is believed that legislative activity is valued by the voting public. Relatedly, media attention in and of itself could be a motivating factor (Dixon 2004: 90), whether that attention is sought to promote understanding of the policy issue or to promote a member's own legislative activity and/or profile. Another motivation is to establish ownership over a policy issue which perhaps the government or other parties have steered away from or are struggling to address. Similarly, some members might use a PMB to signal their, or their party's, position on an issue. Some members might also have future ministerial promotions in mind, where sponsoring PMBs on a particular policy topic might suggest a level of expertise suitable for a ministerial brief.

Building on this, and on the literature review above, a methodological framework for the measurement of impact is constructed. This is outlined in the next section which sets out the methodological approach to this study in full.

1.3 Research framework, data, and methodology

The core aim of this report is to assess the empirical impact of PMBs, and thereby the impact on legislative and policy outcomes of the increase in private member bill legislative activity that has taken place in the Irish parliament since 2011.⁸

1.3.1 Operationalising impact

With impact being a complex and multi-faceted concept, its operationalisation is not a straightforward matter. Consequently, the methodological approach taken is to devise several different measures of impact,⁹ which were constructed by drawing on the scholarly literature on parliaments and legislative activity discussed above (Bowler 2010; Dixon 2004; Solvak and Pajala 2016; Lawlor and Lynch 2019). As per the specifications of the tender, the focus is primarily on legislative and policy impact. The four different forms of impact, and the research sub-questions of interest, are:

1. Impact on legislation: are government bills influenced by PMBs? If so, what type of PMBs are more likely to be influential and, for example, does progress in the legislative process have any bearing on whether a PMB influences government legislation?
2. Impact on policy changes: to what extent can PMBs affect the general focus of a government's legislative and policy programme?
3. Impact on public awareness of an issue: can PMBs raise public awareness about policy issues and policy debates?
4. Impact on parliamentarians: do PMBs raise the media and electoral profile of their sponsors? Is it the case that the more PMBs parliamentarians sponsor, the more media coverage they get and the more votes they will get at the next election?

The study examines these different forms of impact for PMBs since 2011, and for each impact, it considers what factors affect their variation, i.e., under what conditions do PMBs appear to have greater or less impact.

1.3.2 Methods and data used in the study

The overall approach is a mixed-methods one; a combination of qualitative and quantitative methods is used to measure the first form of impact, and primarily quantitative methods for the other impacts. The precise details of how independent and dependent variables are measured is set out in each of the individual sections. Aside from an assessment of the influence PMBs can have on government legislation (the first impact), the main qualitative dimension to this study comes in the form of three case studies, which highlight examples of impactful PMBs. The quantitative methods used comprise a range of statistical tests to determine the level of association between a range of factors to do with the impact of PMBs, including a number of tests of covariance.

8 This report was written in November 2023, with the PMB data available for half of the 33rd Dáil, leading up to the end of 2022. Consequently, any findings must be understood with these dates in mind.

9 This was a requirement of the Terms of Reference.

The core dataset comprises quantitative data on the progress of all 883 PMBs that were introduced in the Oireachtas from the 31st Dáil elected on 25 February 2011 up until 31 December 2022, in the 33rd Dáil. The rationale for this time period is that it coincides with the large increase in PMB activity documented above.

The Library and Research Service provided an initial dataset of PMBs that included the titles of all PMBs during this period, their primary sponsor, party of primary sponsor, legislative outcome (defeated, enacted, lapsed, restored), and the progress of the PMBs through both houses of parliament (i.e., what stage the bill had reached). This included information on money messages and detailed scrutiny.¹⁰

In addition, data on the nature of the issues addressed by these bills, particular characteristics of their respective sponsors, as well as some institutional variables were collated. Firstly, data on the policy topics covered by all 883 PMBs was sourced from Dr Conor Little's Irish Policy Agendas Project (IPAP) (irishpolicyagendas.eu), who generously shared all of the IPAP data with the L&RS and with the author of this report. The IPAP has codified all bills and acts (from 1922 to the end of 2021) into major policy and minor policy subtopics which were developed using a well-renowned international comparative framework – the Comparative Agenda's Project's Master Codebook. The IPAP codebook is on its website and it has twenty-one 'major topics' (listed in the appendix) and 239 'subtopics', which were developed from the international Comparative Agenda Project Master Codebook (www.comparativeagenda.net/datasets_codebooks). The coding is based on the policy area of the legislation, with examples of the major topics being agriculture, health, energy, labour, and employment. The relevant detail on the policy and sub-policy codes for each PMB was extracted from IPAP and then merged into one dataset for this project, which facilitated the wider analysis of impact.

To measure both public debate and media coverage, data was sourced from Factiva, a news search engine owned by Dow Jones, that was used to count both mentions of PMBs and their sponsors.¹¹ The quantitative methodology applied here replicated that of other studies on the 'electoral connection' of PMB activity, especially that by Bowler (2011).

For other data, such as that on individual characteristics of sponsors, the sources are indicated in the relevant sections.

The final source of data comprises ten interviews with (1) parliamentarians involved in the sponsoring of PMBs, (2) parliamentary officials who worked on committees that dealt with the PMBs of interest, and (3) departmental officials who worked with relevant government legislation. These were primarily used for three case studies of PMBs, which were selected on the basis of the analysed impact, namely, to highlight some of the different influences that can be wielded by PMBs.

The three cases were:

1. Children Amendment Bill 2020. This was chosen as an example of a PMB that was enacted, the first type of impact discussed in section 2.
2. Regulation of Lobbying (Amendment) Bill 2020 (in combination with the Regulation of Lobbying (Post-Term Employment as Lobbyist) Bill 2020). These were selected as examples of PMBs that influenced a piece of government legislation (the Regulation of Lobbying (Amendment) Bill 2022), the second type of impact discussed in section 3.
3. Parole Bill 2016. This was an example of a PMB that had an effect on policy change, the third type of impact discussed in section 4.

¹⁰ All this data is not contained in one location, and it entailed a number of tasks and approaches to get all the data, cross-check it, and then pool the different sources into one dataset.

¹¹ <https://www.dowjones.com/professional/factiva/>

The case studies are descriptive, exploratory, and explanatory, and involved a triangulation approach, as the interviews were used alongside media reports, parliamentary debates and other secondary sources to understand the factors that affect the impact of PMBs. More details on the case selection are provided in section 7. Since the other sections (5 & 6) consider the collective influence of PMBs, rather than separate cases, case studies were not deemed as valid for the assessment of these impacts.

1.4 Structure

The remainder of the report is set out in six sections.

Section 2 focuses on the progress of PMBs through the legislative process. It analyses how far PMBs make it to different legislative stages, with a comparison of the characteristics of the bills according to their progress, looking at both their content and the background of their sponsors. There is a focus on the critical second stage of approval, when the principles of a PMBs are debated, to assess why certain bills make it past this stage.

Section 3 considers the first impact of PMBs on government legislation. It looks at the case of the influencer PMBs that can have an (in)direct impact on government bills. This section details how these bills can be identified, uses a number of triangulation methods to do so, and looks at the content of these PMBs.

Section 4 considers how and whether PMBs can affect the policy focus of the government's legislative agenda. It assesses whether the content of PMBs motivates governments to consider their own policy priorities by considering if government bills reflect previously introduced PMBs.

Section 5 considers the impact of PMBs on public awareness of an issue, and whether the content of PMBs reflects the policy priorities of voters.

This is followed by an examination of the issue of ownership and signalling in section 6, with analysis of the impact on the sponsors' profile, to assess if parliamentarians are sponsoring PMBs with a wider electoral goal in mind.

The final section of the report provides analysis of the three case studies, which delve deeper into the concept of impact and aim to understand the factors on which it is dependent.

Section 2: The progress of Private Members' Bills in the legislative process

2.0 Introduction

The vast majority (over 97%) of PMBs are not enacted, but some PMBs progress further than others in the legislative process, gaining more time in parliament and more attention. In this section we categorise each PMB in the dataset according to progress in the legislative process (2.1) and we then explore the data to see if certain factors appear to explain why some PMBs progress further than others (2.2).

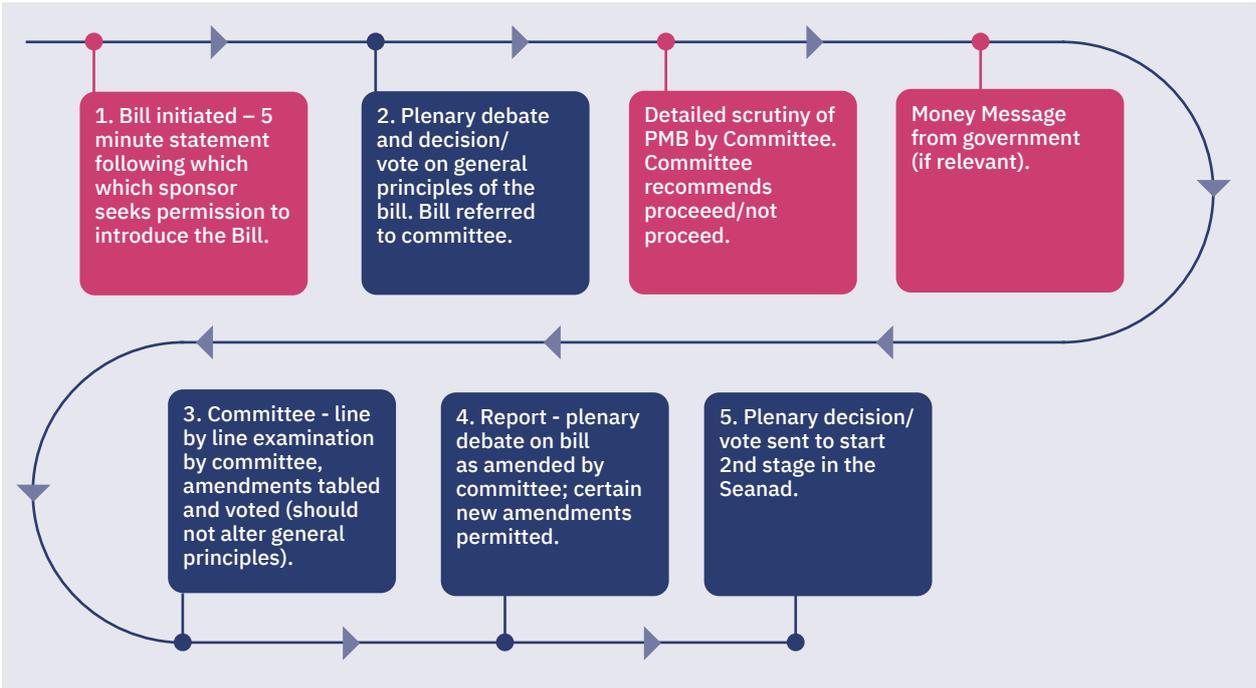
We first briefly outline how the law-making procedure for PMBs works in the Irish parliament as this determines the stages which a PMB may reach.

2.1 Legislative process for PMBs

The legislative process for PMBs is different to that for government legislation, particularly in the Dáil. For example, a PMB must win the Dáil's approval for introduction via a short debate at first stage; a PMB which incurs a charge on the state (tax raising/expenditure) requires a financial resolution/ money message from government to be taken at committee stage in the Dáil (Dáil Standing Orders 211 and 212, 2020); and, since 2016, a PMB undergoes detailed scrutiny by committee prior to the formal committee stage (unless this is waived) (see Box 4 Appendix). Under a Memo of Understanding between government and parliament in 2019 (see 2.3 below) a money message, if required, is given after detailed scrutiny and government is expected to provide a 'reasoned response' if a money message is refused. Figure 2 shows the legislative process for PMBs (the pink boxes differentiate it from that for government bills). Seanad Standing Orders are different, and they permit PMBs with incidental expenditure or tax proposals to proceed to committee stage without a money message or a financial resolution. However, all PMBs must ultimately go through the Dáil to be enacted.¹²

¹² See *L&RS Note, Private Members' Bills, 2019-05-30_l-rs-note-private-members-bills-pmbbs-admissibility-government-messages-and-detailed-scrutiny-updated-note_en.pdf* (oireachtas.ie)

Figure 2. Legislative process for PMB in the Dáil



2.2 Progress of PMBs in the legislative process

While few PMBs are enacted, there is a variety of other possible legislative outcomes for PMBs. For example, one PMB may lapse before it is ever taken for a second stage debate in the House in which it was introduced, while another PMB may pass all stages in one House and have commenced the legislative process in the other House. Some PMBs are defeated, while others lapse at the end of the Dáil/Seanad term. And some PMBs which lapse are restored in the subsequent Dáil/Seanad. Figure 3 provides some indication of the spectrum of progress for a PMB in the legislative process, from those that fail at the first stage to those that pass through one house of parliament and are waiting for approval in another. Figure 3 does not include all possible outcomes, of which there are approximately fifteen for a PMB.

Figure 3. Examples of outcomes for non-enacted PMBs on a spectrum of progress¹³

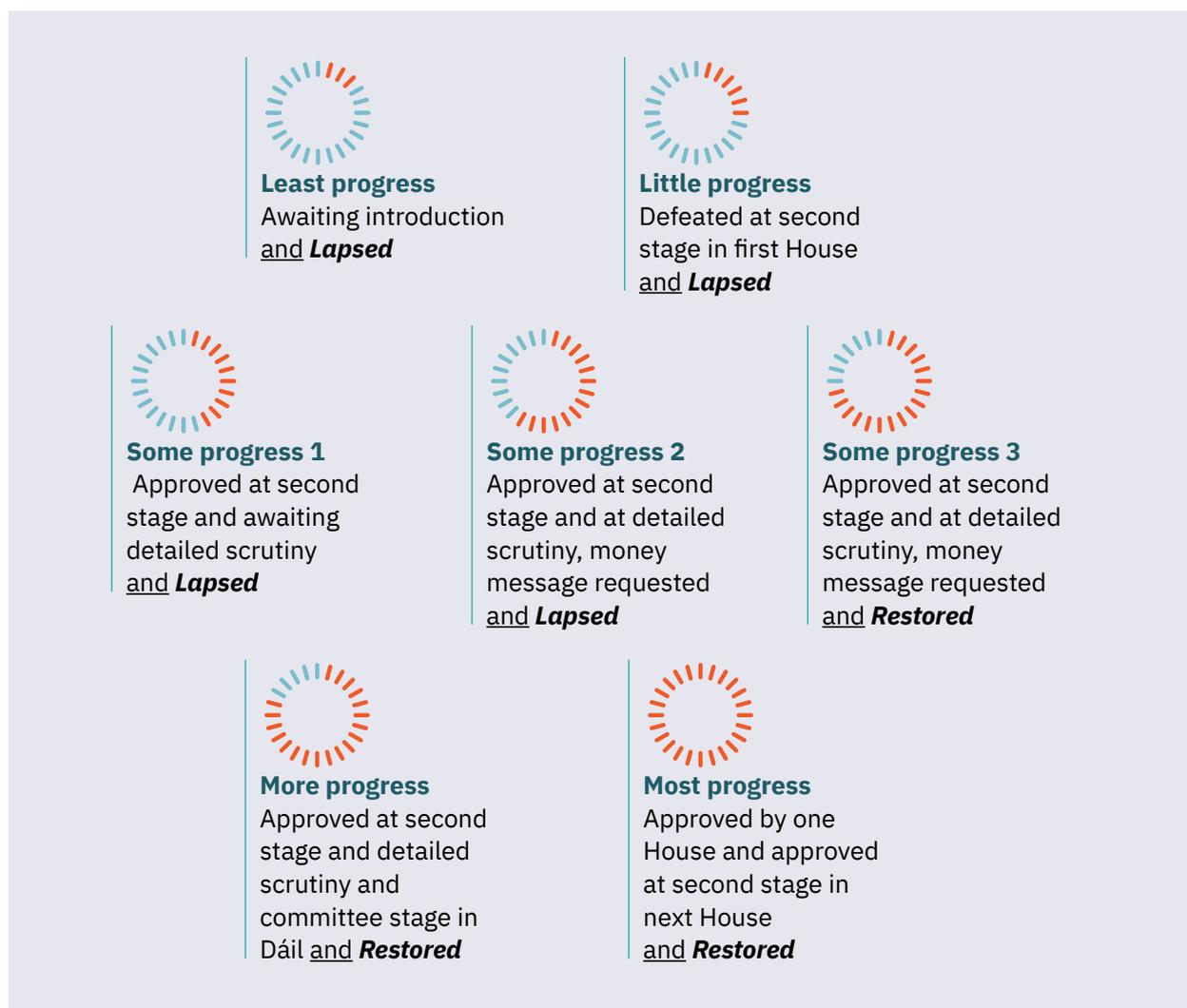


Table 2 below sets out the outcomes, namely enacted, active, defeated and lapsed for all 883 PMBs in our dataset, and the stage in the legislative process at which this outcome occurred. For ease of presentation, the results for the Dáil and Seanad are pooled together in Table 2 as in most cases a PMB remains in the House in which it originated. There are 31 exceptions to this in the dataset, and asterisks are used in Table 2 to note when the figures include PMBs which were already approved by one house.¹⁴

Table 2. Outcome and stage in the legislative process reached by PMBs, 2011-2022

| House of origin | | Stage awaiting | | | | |
|-----------------------|------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| 31st Dail/24th Seanad | Number | 1 st | 2 nd | 3 rd | 4 th | 5 th |
| Enacted | 4 | | | | | |
| Restored & active | 8 | | 3 | 5 | | |
| Defeated | 82 | | 82 | | | |
| Lapsed | 223 | 6 | 181 | 32 | | |
| Total | 317 | | | | | |

13 This does not include all possible outcomes.

14 Thirty-one (31) bills were fully approved by one House and taken in the other House; of these, 15 had been proposed in the Dáil and were subsequently passed by the Seanad (and enacted) and 16 had been proposed initially in the Seanad. Of these 16, five were enacted and five were subsequently defeated by the Dáil.

The impact of Private Members' Bills on legislative and policy outcomes

| House of origin | | Stage awaiting | | | | |
|----------------------------------|------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| 32nd Dáil/25th Seanad | Number | 1 st | 2 nd | 3 rd | 4 th | 5 th |
| Enacted | 15* | | | | | |
| Restored & active | 76 | | 27 | 48** | 1 | |
| Defeated | 40 | | 40*** | | | |
| Lapsed | 220 | | 146 | 72 | 2 | |
| Rejected after detailed scrutiny | 2 | | | | | |
| Total | 353 | | | | | |

* Includes 4 bills that originated in Seanad.

** Includes 5 bills that passed through all stages in Seanad before Dáil.

*** Includes 3 bills that passed through all stages in Seanad before Dáil.

| House of origin | | Stage awaiting | | | | |
|----------------------------------|------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| 33rd Dáil/26th Seanad | Number | 1 st | 2 nd | 3 rd | 4 th | 5 th |
| Enacted | 1^ | | | | | |
| Active | 194 | | 116* | 73 | 5 | |
| Defeated | 14 | | 14 | | | |
| Rejected after detailed scrutiny | 1 | | | | | |
| Approved for initiation | 2 | 2 | | | | |
| Total | 212 | | | | | |

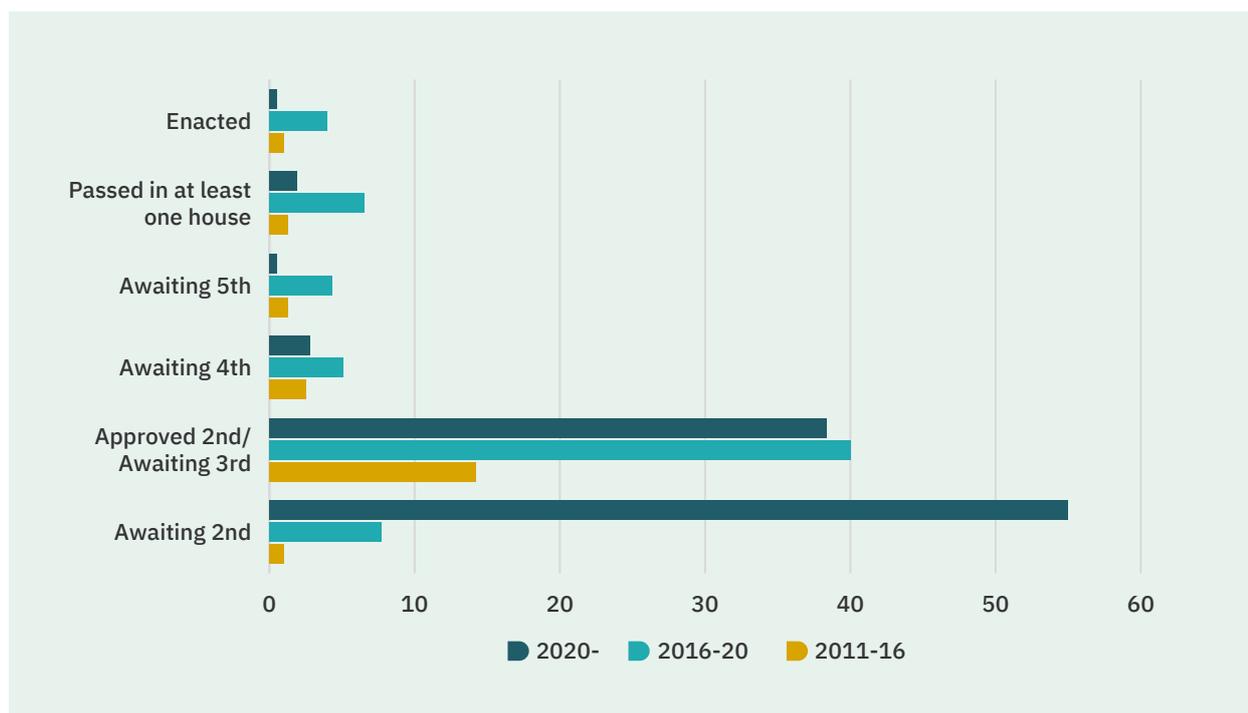
* Includes 3 bills that passed through all stages in Seanad before Dáil.

^ Originated in Seanad.

Table 2 shows both outcome and progress in the legislative process for PMBs. For example, it shows that eight of the PMBs introduced in the 31st Dáil/24th Seanad were restored to the Order Paper on dissolution, three of which were awaiting a second-stage debate and five of which had been approved at second stage and awaited committee stage. It also shows that 76 PMBs introduced in the 32nd Dáil/25th Seanad were restored following its dissolution, 27 awaiting a second-stage debate and 48 awaiting committee stage. Five of these 48 PMBs had already been approved by the other House (see **).

Figure 4 shows the percentage of PMBs which reached certain stages in the legislative process for each Dáil/Seanad (regardless of whether they are restored or lapse).

Figure 4. Legislative progress of PMBs, 2011-22 (%)



Note: Bars denote percentages of PMBs' legislative progress per Dáil/Seanad.

Table 2 and Figure 4 do not distinguish between those PMBs awaiting third stage that have/have not undergone detailed scrutiny. This is because this stage was only created in 2016 (so it is not a possible outcome for the 31st Dáil/25th Seanad). Details of the outcomes of PMBs and detailed scrutiny post-2016 is discussed at 2.3 and provided in Table 3 below.

A number of key observations can be made from the data presented above.

Firstly, the most common outcome for a PMB in the 31st Dáil was for it to lapse prior to a debate at second stage in the House in which it was introduced (181 bills or 58% of PMBs). Looking at the spectrum in Figure 2, these PMBs achieved the least progress in the legislative process. The next most common outcome was for the PMB to be defeated after a second-stage debate in the house (82 bills). Thirty-seven (37) PMBs were approved following a second-stage debate, of which 32 lapsed at the end of that Dáil/Seanad term and five (5) were restored to the 32nd Dáil. The five bills that were approved at second stage and restored to the Order Paper made the most progress in the 31st Dáil/24th Seanad.

Secondly, the legislative journey of PMBs has been quite different in the 32nd and 33rd Dáileanna. While many PMBs from the 32nd Dáil/25th Seanad did lapse while awaiting a second-stage debate in the House in which it was introduced (146 PMBs or 41%), it is also the case that 141 PMBs (40%) were approved at second stage between 2016-2020, 48 of which were restored in the subsequent Dáil/Seanad. Five of these 48 restored PMBs had already been fully approved by the Seanad:

- International Protection (Family Reunification) (Amendment) Bill 2017
- Irish Human Rights and Equality Commission (Gender Pay Gap Information) Bill 2017
- National Minimum Wage (Protection of Employee Tips) Bill 2017
- Control of Economic Activity (Occupied Territories) Bill 2018
- Perjury and Related Offences Bill 2018

Only 37 PMBs were defeated at a second-stage debate (and four of these had already been approved by the other House – the Seanad in this case). As denoted in Table 3 above, this is just under 11% of all PMBs in that Dáil/Seanad (and 9% if the four (4) PMBs which had prior approval from the Seanad are removed).

Thirdly, while there is a distinct pattern to PMBs in the 33rd Dáil/Seanad to date (end 2022), it resembles that of the 32nd/25th rather than the 31st Dáil/24th Seanad. Up to the end of 2022, as few as 7% of PMBs had been defeated, a number which is likely to increase as the Oireachtas sees out its term but is still closer to the 11% of defeat in the 32nd Dáil than the 26% in its predecessor. While a smaller percentage of PMBs are being defeated in the 32nd and 33rd Dáil (to end 2022), it remains the case that if a PMB is defeated, it is most commonly defeated at the second stage. A Bill can only be voted down in its entirety at Second Stage or Fifth Stage; it cannot be “defeated” at Committee or Report Stages, as these are amending Stages, aimed at engaging with the text of the Bill in detail given that it has already been agreed in principle at Second Stage. PMBs can however be put “on pause” at the pre-Committee or detailed scrutiny Stage if the Committee agrees that the Bill should not proceed to Committee Stage (See Detailed Scrutiny section for details).

Fourthly, while approximately 40% of PMBs have been approved at second stage since 2016, the numbers of PMBs progressing further remains low.

Next, we consider the numbers that are taken for detailed scrutiny.

2.3 Detailed scrutiny

One key factor to consider in the progress of PMBs is ‘detailed scrutiny’, an additional interim quasi-stage that was introduced in the 32nd Dáil. Detailed scrutiny (also referred to as pre-committee stage scrutiny) takes place in between second stage (debate and decision on general principles of the bill) and committee stage (line-by-line scrutiny and consideration of proposed amendments). It was introduced in the Dáil in response to the increasing numbers of PMBs passing second stage, and with a view to ensuring that PMBs are subjected to a similar level of scrutiny as government bills (for which pre-legislative scrutiny had been introduced in 2013). It was also designed to facilitate with government decisions on the granting or not of money messages where PMBs involve incidental expenditure. All PMBs that pass second stage in the Dáil must now undergo detailed scrutiny by the relevant Oireachtas committee to progress to the third stage, unless the requirement is waived by the Dáil’s Business Committee (on the request of the PMB’s sponsor or of the committee).¹⁵ If the recommendation is that the PMB proceed, the bill can be moved to committee without debate; if the recommendation is not to proceed, the bill’s sponsor can still move a motion for the PMB to progress to third stage, but there must be a debate and a decision on the motion in the Dáil.¹⁶

By July 2023, almost 70 cases of detailed scrutiny of PMBs had been undertaken since its introduction in 2016. Nineteen of these were still underway at the time of writing, while 50 reports in total had been issued. In addition, in nine cases the Business Committee had waived the necessity for such scrutiny (one of which was enacted – Tony McLoughlin’s Petroleum and Other Minerals Development (Prohibition of Onshore Hydraulic Fracturing) Bill 2016).

In only three cases did the respective reports recommend that the PMB should not proceed any further: the Health and Social Care Professionals (Amendment) Bill 2016, the Cannabis for Medicinal Use Regulation Bill 2016, and the Ban on Sex for Rent Bill 2022.

15 Under Dáil Standing Orders, the PMB’s sponsor must write to the Committee to instigate the process of detailed scrutiny.
16 <https://www.oireachtas.ie/en/visit-and-learn/how-parliament-works/how-laws-are-made/>

Table 3 summarises the legislative outcome of the 50 PMBs that have undergone detailed scrutiny. Thirty-nine of these PMBs were first introduced in the 32nd Dáil/25th Seanad, so the bulk of these findings relate to that parliament. Six of these PMBs had originally been introduced in the previous Dáil, but were restored in successive Dáileanna, with two of these still active (Thirty-fourth Amendment of the Constitution (Presidential Voting) Bill 2014 and the Electoral (Amendment) (No. 3) Bill 2014).

Of the thirty-nine PMBs for which detailed scrutiny was completed in the 32nd Dáil, two were enacted (Deputy Jim O'Callaghan's 2016 Parole Bill and Deputy Pearse Doherty's Consumer Insurance Contracts Bill 2017). Half of these 39 PMBs either lapsed awaiting the 3rd stage or were rejected or defeated. Fifteen of the 39 PMBs remain active, still awaiting the 3rd stage. This means that 17 of the 39 were either enacted or remain active.

Does detailed scrutiny help a PMB to progress further in the legislative process?

With the limited number of bills that have been through this process, it is difficult to say just yet, but if we compare the outcome of PMBs that underwent detailed scrutiny to all other PMBs that make it to the committee stage, that might provide some indication of its impact. Looking at the figures reported in Table 2, the proportions that make it to each stage in each of the three Dáileanna can be compared with the equivalent figures for those that underwent detailed scrutiny in Table 3. The results are that there are very few differences between the two sets of figures. The proportion that lapses or remain active at the 3rd stage after detailed scrutiny, is quite similar to the fate of other PMBs that do not undergo such scrutiny, as is the proportion that progress further, or are ultimately enacted. On this basis alone, the impact of detailed scrutiny on the legislative progress of a PMB appears to be limited.

Table 3. Outcome of PMBs that underwent detailed scrutiny, 2016-2023

| Outcome | N | % |
|------------------------------|-----------|------------|
| Active 2 nd stage | 2 | 4 |
| Rejected by committee | 2 | 4 |
| Active 3 rd stage | 22 | 44 |
| lapsed 3 rd stage | 19 | 38 |
| Active 4 th stage | 2 | 4 |
| Enacted | 3 | 6 |
| Total | 50 | 100 |

Note: Five bills initially sponsored before 2016 underwent detailed scrutiny following the introduction of the latter. These bills were all restored in the 32nd Dáil. These are: Coroners Bill 2015; Electoral (Amendment) (No. 3) Bill 2014; Central Bank and Financial Services Authority of Ireland (Amendment) Bill 2014; Education (Amendment) Bill 2015; Thirty-fourth Amendment of the Constitution (Presidential Voting) Bill 2014.

2.4 What appears to affect the progress of PMBs in the legislative process?

Having described the legislative journey of each PMB, two questions arise. Firstly, why are some PMBs progressing further? Are PMBs that progress further associated with certain characteristics? For example, are PMBs which fall into certain policy areas more likely to progress than others? Secondly, does progress in the legislative process have any bearing on the legislative or other impact of a PMB? The first question and associated issues are explored below while the second question is considered in section 3.

Our dataset has a unique legislative outcome for each of the 883 PMBs. However, these outcomes are too many for comparative analysis. To assess what affects the progress of PMBs, we focused on two key outcomes: approved or not approved at second stage. As discussed previously, the second stage is the key moment in the legislative process when the principles of a bill get voted on. In addition, since relatively few PMBs progress beyond the 3rd stage (less than 4% of our dataset), the numbers of PMBs would be too few for reasonable analysis of further stages. Consequently, we looked at all PMBs that were no longer active at the second stage, that is, a decision had been reached concerning the progress of the bill. This excludes 146 of the 883 PMBs in our dataset that were still active at the second stage, with all other PMBs categorised into whether they were approved/not approved at second stage.

We then considered two possible explanatory factors for the progress of PMBs:

- Content of bill: The policy or issue topic being covered by the PMB. Do bills on particular topics progress further than others? For example, do PMBs about non-political 'soft' issues progress further than more partisan issues over which parties are divided?
- Parliamentarians' characteristics: It might be expected that TDs and Senators' individual skills and traits, such as their experience, occupational background, or tenure in office, have a bearing on the outcome of legislation.

2.4.1 Bill content

The Irish Policy Agendas Project (IPAP) identified a policy topic for each PMB, and so it is possible to see for each Dáil/Seanad what issues were covered by PMBs.¹⁷ Table 4 lists the top 10 policy topics covered by PMBs for the last three parliaments. It shows a mix of consistency and variation in the proportions of bills on each of the major policy topics. The consistency is that some policy topics generally remain popular across Dáileanna (law and crime, government operations, health, and housing and planning), with the variation coming in the proportions of PMBs devoted to these topics. Some of the significant variation is a decline in the number (and proportion) of PMBs concerning the topics of government operations, banking, and law from the 31st, to 32nd and to the 33rd Dáil (to end 2022). Also denoting consistency is that about 10% of PMBs in all three Dáileanna concerned health issues, while education and energy comprised between 2% and 4% of PMBs. In terms of variation, a higher proportion of PMBs have concerned 'housing and planning' and 'labour' issues in the later Dáileanna; while housing and planning accounted for 9% of PMBs in the 31st Dáil, 20% of PMBs in the 33rd Dáil (to end 2022) have been on this topic.

17 The IPAP's policy categories are described in the Appendix. More information is available at <http://ppasi.org/>

Table 4. Breakdown of PMBs by policy topic (%)

| Issue | 31 st Dáil/ 24 th Seanad | 32 nd Dáil/ 25 th Seanad | 33 rd Dáil/ 26 th Seanad |
|---|---|---|---|
| Law, crime, & family law | 13 (42) | 13 (46) | 9 (13) |
| Banking, Finance & Domestic Commerce | 13 (41) | 9 (33) | 6 (9) |
| Government operations | 13 (42) | 7 (25) | 8 (12) |
| Civil Rights, Minority Issues & Civil Liberties | 12 (37) | 6 (21) | 7 (11) |
| Health | 11 (34) | 10 (36) | 10 (16) |
| Community Development, Planning & Housing | 9 (29) | 16 (55) | 20 (30) |
| Labour and Employment | 4 (14) | 7 (26) | 13 (20) |
| Education | 3 (11) | 4 (14) | 2 (3) |
| Energy | 3 (11) | 3 (11) | 4 (6) |
| Environment | 3 (10) | 4 (15) | 6 (9) |
| Space, Science, Technology & Communications | 3 (9) | 3 (12) | 0 (0) |
| Total | 317 | 353 | 153 |

Note: figures given are percentages per parliament, with numbers of bills in parentheses. The totals are number of bills.

To explore whether the policy issue concerned has any relationship with whether a PMB progresses in the legislative process, Table 5 compares the breakdown of those that have/have not been approved at second stage according to the top policy topics. This comprises 737 of all the 883 PMBs in our dataset. For example, PMBs on law and crime comprise 20% of those approved at the second stage in the 31st Dáil, compared to 12% of those not approved, suggesting that PMBs on law might be likely to progress further. The same was true for PMBs on civil rights in the same Dáil, while the reverse was true for housing and planning. The latter comprised just 2% of PMBs approved, but 10% of those not approved. The same association for this policy topic is repeated in the 32nd Dáil. With the data for the 33rd Dáil/26th Seanad being live, this is not yet a final outcome (there were 116 PMBs awaiting second stage in 2022), and so we should be especially wary of reading too much into these figures, especially for those not approved, given the total as of December 2022 was just ten PMBs. The main conclusion from Table 5 is that PMBs on law and crime seem more likely to be approved at 2nd stage, those on planning and housing are less likely to be approved, while there is mixed evidence for other policy topics.

 Table 5. Breakdown of PMBs approved at 2nd stage by policy topic (%)

| Policy topic | 31 st Dáil/ 24 th Seanad | | 32 nd Dáil/ 25 th Seanad | | 33 rd Dáil/ 26 th Seanad | |
|--------------------------------------|---|-------------------|---|-------------------|---|-------------------|
| | PMBs approved | PMBs not approved | PMBs approved | PMBs not approved | PMBs approved | PMBs not approved |
| Banking, finance & domestic commerce | 9 | 14 | 13 | 7 | 7 | 5 |
| Law, crime, & family law | 20 | 12 | 13 | 13 | 13 | 0 |
| Health | 9 | 11 | 13 | 9 | 12 | 20 |
| Planning & housing | 2 | 10 | 12 | 18 | 15 | 33 |
| Civil rights | 31 | 8 | 7 | 5 | 7 | 0 |
| Labour | 7 | 4 | 9 | 8 | 13 | 10 |
| Environment | 0 | 4 | 3 | 5 | 6 | 10 |
| Total (N) | 451 | 269 | 140 | 186 | 66 | 12 |

Note: figures given are proportions, except for totals, which are numbers of bills. Proportions do not total to 100 because not all policy topics are listed.

It is also possible to consider whether certain policy topics are over-represented amongst PMBs that were enacted. Table 6 lists all the enacted PMBs during the 2011-22 period. It shows that compared to other PMBs, those signed into legislation are more likely to cover issues related to law and crime, as well as banking and commerce. These two broad topics make up almost 50% of PMBs enacted while making up under 22% of all PMBs proposed. PMBs addressing energy issues constituted 9% of enacted PMBs while constituting only 3% of those proposed, but in the latter case the numbers involved are too low to read much more into this.

In terms of low success rates, while the issues of planning and housing and labour and employment constituted over 20% of PMBs proposed, they comprised less than 10% of those enacted. Of the 174 PMBs on these policy topics over the eleven-year period of concern, just two were signed into law. This repeats a pattern found in Table 3 for planning and housing, whereby PMBs in this policy area are less likely to make progress.

Finally, in the UK PMBs have been enacted in certain policy areas when a government does not want to be seen to introduce legislation in a particular area, including social policy issues such as homosexuality, abortion, and divorce (Brazier and Fox 2010: 203). From the overview in Table 6 of enacted PMBs in Ireland in 2011-2022, it does not seem that this is a factor explaining why they became law, as most of the passed PMBs do not fall into this category.

Table 6. Private Members' Bills enacted into legislation, 2011-'22 (by policy topic)

| | |
|-----------------------------|---|
| Banking and commerce | |
| 1. | Central Bank and Financial Services Authority of Ireland (Amendment) Act 2017 |
| 2. | Intoxicating Liquor (Breweries and Distilleries) Act 2018 |
| 3. | Consumer Insurances Act 2019 |
| 4. | Intoxicating Liquor (Amendment) Act 2018 |
| 5. | Consumer Protection (Regulation of Credit Servicing Firms) Act 2018 |
| 6. | Construction Contracts Act 2013 |
| Law and crime | |
| 7. | Parole Act 2019 |
| 8. | Civil Law (Presumption of Death) Act 2019 |
| 9. | Children (Amendment) Act 2021 |
| 10. | Criminal Justice (Perjury and Related Offences) Act 2021 |
| Health | |
| 11. | Mental Health (Amendment) Act 2018 |
| 12. | Mental Health Act 2015 |
| 13. | Protection of Children's Health (Tobacco Smoke in Mechanically Propelled Vehicles) Act 2014 |
| Civil rights | |
| 14. | Thirty-eighth Amendment of the Constitution (Dissolution of Marriage) Act 2019 |
| 15. | Irish Sign Language Act 2017 |
| 16. | Equality (Miscellaneous Provisions) Act 2015 |

| |
|---|
| Energy |
| 17. Petroleum and Other Minerals Development (Prohibition of Onshore Hydraulic Fracturing) Act 2017 |
| 18. Fossil Fuel Divestment Act 2018 |
| Labour and employment |
| 19. Competition (Amendment) Act 2017 |
| Social welfare |
| 20. Parental Leave (Amendment) Act 2019 |
| Science and communications |
| 21. Harassment, Harmful Communications and Related Offences Act 2020 |
| Planning and housing |
| 22. Landlord and Tenant (Ground Rents) (Amendment) Act 2019 |

Note: Year indicates when the bills were enacted.

2.4.2 Background of parliamentarians

The next question explored is whether the sponsor's party/group and experience/background help to explain the progress of a PMB. First, it could be the case that PMBs on planning and housing are more likely to be defeated, not because of the issue they concern, but because they emanate from parties ideologically opposed to the government. Similarly, it could be that PMBs concerning legal issues might be more likely to pass because they are proposed by members of the parties in government. Secondly, experience and background may matter. It is possible that the more experienced parliamentarian might draft a better bill, be more aware of what can progress in parliament, or might command more respect in parliament through a cultivated network. Several American studies of legislative effectiveness have found that politicians with a legal background are much more likely to get their bills published as legislation (Anderson *et al.* 2003; Miquel and Snyder 2006).

With progress again assessed in terms of approval rate at the second stage of the legislative process, experience is measured by the number of years the sponsor had been a member of the Dáil or Seanad when the PMB was introduced. To denote a parliamentarians' background, we recorded whether they have a legal background. Data from the sponsors' personal websites and various editions of the biographical reference text *Nealon's Guide*¹⁸ was used to identify PMB sponsors who had worked as barristers or solicitors.

Table 7 breaks down the approval rates of PMBs according to TDs'/Senators' respective party, their years of experience in parliament, and their professional background.

18 These contain personal profiles of TDs and Senators, and have been published after every general election back to 1973.

Table 7. Features of PMBs and their sponsors by approval rate at 2nd Stage

| Party | 31 st Dáil/24 th Seanad | | | 32 nd Dáil/25 th Seanad | | | 33 rd Dáil/26 th Seanad | | |
|-------------------------------|---|--------------|-----|---|--------------|-----|---|--------------|----|
| | Not approved (%) | Approved (%) | N | Not approved (%) | Approved (%) | N | Not approved (%) | Approved (%) | N |
| Fianna Fáil | 88 | 12 | 107 | 52 | 48 | 121 | 67 | 33 | 27 |
| Fine Gael | 81 | 19 | 26 | 58 | 42 | 19 | 58 | 42 | 12 |
| Sinn Féin | 86 | 14 | 57 | 70 | 30 | 92 | 66 | 34 | 70 |
| Labour | 84 | 16 | 31 | 40 | 60 | 30 | 48 | 52 | 33 |
| Independents | 85 | 15 | 83 | 57 | 43 | 51 | 40 | 60 | 20 |
| Green | | | | 70 | 30 | 10 | 78 | 22 | 9 |
| Others | 85 | 15 | 13 | 80 | 20 | 30 | 68 | 32 | 22 |
| Parliamentarians | | | | | | | | | |
| Oireachtas experience (Years) | 8.2 | 7 | | 7.2 | 7.6 | 353 | 5.9 | 7 | |
| Legal background (Yes/No) | 9 | 7 | | 9 | 19 | | 11 | 17 | |

Note: All figures apart from N (totals) and Oireachtas experience are proportions.

Looking at the first question – a sponsor’s party – there are some notable differences in the progression of PMBs depending on the party of the sponsor. Labour has had the highest proportion of its PMBs win approval at second stage in the past two parliaments, double that of Sinn Féin for example. In the 32nd Dáil/25th Seanad, 18 of Labour’s 30 PMBs advanced to committee stage, compared to 28 of Sinn Féin’s 92 PMBs. Fianna Fáil also had a high success rate in that Dáil/Seanad, with almost half of its 121 PMBs making it to committee; this may have been a product of its confidence and supply agreement with the government in that particular Dáil. When we look at PMBs enacted since 2011, a similar pattern is found. Three (3) per cent of Fianna Fáil, Fine Gael and Labour PMBs were enacted, two and a half times the proportion of the other parties. This difference is especially marked for Sinn Féin, which had only two (2) of its 219 PMBs become law (Deputy Pearse Doherty’s Central Bank and Financial Services Authority of Ireland (Amendment) Bill 2014, and his Consumer Insurance Contracts Bill 2017).

Looking at experience and professional background, the mean Oireachtas experience for those whose bill is either defeated at the second stage or progresses beyond this (including enactment) falls in and around seven years, suggesting years spent in parliament has little impact on PMBs’ fate. Concerning a sponsor’s background, we found that 106 of the 883 PMBs were sponsored by parliamentarians with a legal background, with substantial differences in how far their PMBs progressed compared to other parliamentarians. For example, fewer than 30% of PMBs from non-legal sponsors made it to the committee stage, compared to 43% from those with a legal training. Further, 7% of PMBs sponsored by lawyers became law, more than three times the success rate for PMBs sponsored by those not from a legal background. While these differences were not evidenced in the 31st Dáil they were particularly marked in the 32nd and 33rd Dáileanna.

2.5 Conclusion

This section detailed the legislative progress and outcomes of 883 PMBs. It was shown that there was a significant change in the 32nd Dáil, which was maintained in the 33rd Dáil, in that PMBs were much more likely to be approved at second stage. This means that parliament is giving PMBs more airtime, the impact of which is assessed in the next sections. It was also shown that while detailed scrutiny does increase the amount of time and focus on a PMB, it does not to date (end of 2022) appear to make a PMB more likely to progress further in the legislative process.

The question of whether PMBs that progress further are associated with certain characteristics was examined. A number of explanatory factors were separately considered to determine how they impact on the progress made by PMBs in the legislative process.

To assess the collective influence of these factors, a statistical test called a logistic regression can be conducted. This is used when the dependent variable is binary (i.e., two values: approved at second stage/not approved), and, considering all the 737 PMBs in our dataset for which a definitive outcome on the second stage had been reached, we examined the influence of: (1) parliamentarians' legal background, (2) years in the Oireachtas at time PMB was sponsored, (3) if the government was majority or minority, (4) if the PMB concerned a Planning and Housing issue (since the bivariate analysis suggested these were less likely to be approved), and (5) if the PMB concerned Law and Crime.

The results confirmed the positive and negative impact of the last two issues, although the coefficients were not statistically significant.¹⁹ The most important results are that a sponsor having a legal background and a minority government being in situ both had a statistically positive impact on the likelihood of a PMB being approved at the second stage.

Overall, these varied outcomes suggest that PMBs may be having an impact beyond the possibility of being enacted. Sections 3-6 explores the data to find these impacts.

19 The statistical table is contained in the appendix – Table 22.

Section 3: The impact of PMBs on legislation

3.0 Introduction

Just because a PMB did not become legislation does not mean it had no impact on legislation. In a Westminster-influenced political system such as Ireland's, it may be that a government would rather adopt parts of a commendable PMB and introduce a bill of its own than pass the PMB in the Oireachtas. Or a government may decide, for reasons relating to the policy-making and legislative drafting process, that it is more practical for government to introduce its own bill, even if it is taking on board issues raised in a PMB. Studies in the USA have called the phenomenon of laws aligning with unpassed bills 'hitchhiking' (Casas *et al.* 2020), with many members of Congress openly claiming credit for instances of where their defeated bills hitchhiked onto legislation. Cavari *et al.* (2023) describe how PMBs can influence the government's agenda, prompting the government to respond to an issue by introducing legislation of its own.

In the wider world, the term influencer has now become commonplace, especially in social media, to mean someone who has the power to affect the decisions of others. This can be implicit or explicit, with those being affected unaware they have been influenced, or, in some cases, they have been directly persuaded to engage in an activity. In the parliamentary world, influencer bills are private members' bills that affect government legislation. This could be explicit influencing, where the government recognises the merits of a PMB and takes elements of the bill into its own legislation. It could be also unintentional, where the government is not aware that it has been influenced (i.e., the government bill just happens to align in content with a past PMB), or subconsciously, where the government's preferences in a policy area are indirectly influenced by a PMB.

This section explores how PMBs have affected government legislation. It uses the dataset of 883 PMBs, along with a set of government-enacted legislation, to identify influencer PMBs. This is followed by an analysis of the characteristics of influencer PMBs vis-à-vis other PMBs with a view to understanding why some PMBs have this type of impact and others do not.

3.1 Identifying influencer PMBs

It is sometimes easy to identify an influencer PMB. For example, Senator Ivana Bacik's (Labour) Civil Registration (Amendment) Bill 2011 was withdrawn after Minister Joan Burton (also Labour) introduced the Civil Registration (Amendment) Bill in 2012 in an explicit acknowledgement that the issue central to Senator Bacik's bill had been taken on board.

However, in general, identifying influencer PMBs is not straightforward as government will not always publicly acknowledge that it is adopting parts of a PMB, and as noted above, the influence of a PMB can be implicit as well as explicit.

To identify influencer PMBs, we use a form of triangulation; this means that a number of different methods were simultaneously applied in an effort to avoid any biases from the use of a single methodology. The methods applied were:

Step 1: Categorising the bills by policy topic and sub-topic

All Government bills and PMBs in the 31st, 32nd and 33rd Dáil (up to 31st Dec 2021) were classified into both a major policy topic and minor policy subtopic using the coded scheme of 21 major and 220 minor subtopics from the Irish Policy Agendas Project (irishpolicyagendas.eu).

Step 2: Matching government bills and PMBs by policy topic and date of PMB introduction

A matching analysis was conducted to identify pairs of bills. A pair was identified where a government and private member's bill had the same major code and if the PMB had been introduced prior to the government bill. For practical purposes, and because the likelihood of influencing diminishes with time, we applied a five-year cut-off point after the introduction of a PMB to the matching analysis; in other words, if a government bill was published more than five years after a PMB we did not include this as a match. We also only looked at government bills for the same time period (i.e. 2011-22). One consequence of this methodological decision is that we miss any influencer PMBs from the pre-2011 period that influenced government bills in the post-2011 period and any possible future impacts of live PMBs. However, (a) a cut-off point in time had to be picked, and (b), the focus of the study is on PMBs (not necessarily government bills) from 2011 on.

This process of matching and analysis was carried out for all parliamentary bills in the 2011-22 period, with a simple binary outcome of yes/no for whether a PMB was an influencer on any of the 548 government bills introduced in this period. The degree of influence is not measured, i.e., how much of a government act was similar in content to a PMB, as the reliability of such a measure would have been prone to too much error and subjectivity.

Seventy-one matching pairs were identified by this method of matching analysis.

Step 3: Validating the matching by policy topic

To ensure that the seventy-one matched bills were, in fact, addressing a similar topic as the codes suggested, each of these matches was then manually examined to assess if there was a similarity between the aims of a government bill and a PMB, i.e., if they are covering the same issue. The methodology applied was a reading of the two bills, using the experience of the researcher to determine if the bills addressed the same issue. This was also facilitated by the minor codes from the IPAP, which indicated the topic of the bills in a more specific fashion than the major codes. The degree of similarity between the bills in each matching pair was not measured, with the coding being a binary outcome of whether the match was valid, i.e., if the two bills addressed the same issue topic the match was deemed to be valid.

Where a government bill was matched with a specific PMB, using the two processes described above, the PMB was deemed an influencer. As a result of the manual examination 16 of the 71 matches were discounted, leaving 55 PMBs.

Step 4: Testing the robustness of the method

Two further tests of reliability were carried out to assess the robustness of this method.

- Firstly, we checked to see if the matching analysis missed cases of influencer PMBs.
- Secondly, we sought confirmation of the proposition that where a PMB and a government bill was matched, the former did in fact influence the latter. We subjected our final list of matched bills to a test of attribution using Claude2 (described below).

To undertake the first reliability test, a search of Irish media sources on the Factiva database was undertaken. The term searched for was 'private members bill', which resulted in many hits, but which was necessary to ensure as wide a net as possible was cast.

This method found cases of matching bills that had not already been identified and the manual examination provided a robust cross-validation process. We found that where influencers had not been identified through matching codes using the IPAP coding frame, government bills had been assigned different major codes to PMBs. For example, the government's Civil Registration (Amendment) Bill 2014 had several sections, one of which was to establish a record of Irish citizens who died overseas. This amendment was an issue on which Deputy Seán Kyne of Fine Gael had been active, and he had introduced a PMB – the Civil Registration (Amendment) (Domestic Registration of Death Records) Bill 2012. This case of influence was initially missed as the government bill was coded under the major topic of law, crime, and family law, while the PMB was coded under the topic government operations. There are further examples of the methodological process set out in Boxes 1 and 2 below. Four further influencer bills were identified using this process (leaving the number at 59 PMBs).

Box 1. Applying the methodology – Example 1

The government-sponsored Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Bill 2018 shares a subtopic code with four PMBs in the 2011-22 period: Proceeds of Crime (Amendment) Bill 2014, Office of Fiscal Prosecution Bill 2015, Roads (Criminal Activity) (Amendment) Bill 2015, and the Proceeds of Crime (Investment in Disadvantaged Communities) (Amendment) Bill 2021. None of these four bills covered the same detail and issues as the government's Criminal Justice Bill 2018, so none are deemed to be influencers.

A second test of reliability was applied using Claude2, an artificial intelligence (AI) large language model (LLM). We opted for AI that uses semantic searching because other quantitative text analysis approaches (such as plagiarism-detection software) that use key word searching might be inapplicable given that the qualitative comparison showed that similar language was not always used within matching pairs of bills.

Claude2 is an AI assistant developed by Anthropic²⁰ using constitutional AI techniques intended to improve honesty and truthfulness compared to other large language models, such as ChatGPT. When utilised for legal text research requiring accurate analysis and high comprehension of complex documents, Claude2 has several advantages over Chat GPT. First, Claude2 deliberately avoids providing confident answers if its knowledge is insufficient, while ChatGPT is more prone to generating plausible sounding, but incorrect or nonsensical statements. Additionally, Claude2 specialises in nuanced comprehension-based tasks essential for legal work, such as comparing court cases and summarising arguments in briefs based on detailed understanding.

20 Anthropic is an AI safety and research company that in March 2024 announced plans to open an office in Dublin (<https://www.rte.ie/news/business/2024/0319/1438680-ai-startup-anthropic-to-open-dublin-office/>)

Box 2. Applying the methodology – Example 2

The government-sponsored Sale of Tickets (Cultural, Entertainment, Recreational and Sporting Events) Bill 2021 shares a major topic code with fifteen PMBs. A manual comparison revealed that one of these PMBs is on a similar issue – the Sale of Tickets (Sporting and Cultural Events) Bill 2017 sponsored by Deputy Noel Rock (Fine Gael) and Deputy Stephen Donnelly (then of the Social Democrats). This bill, which was supported by the previous (2011-16) Fine Gael minority government, proposed a ban on selling tickets for entertainment events above cost price. It had been supported by all parties in the Dáil during the bill's second reading in 2019 but lapsed on the dissolution of the Dáil a year later. On this basis, it is concluded (and, indeed, acknowledged by government) that the PMB influenced the government bill. The analysis from Claude2 (see below) also confirmed a level of influence.

Because Claude2 can 'hallucinate', i.e., claim something to be true when it is not (<https://docs.anthropic.com/claude/docs/minimizing-hallucinations>), it should be used with other methods, or as a tool test for reliability. Claude2 is not currently available in Ireland, but we were able to carry out the analysis with the assistance of Professor Slava Jankin Mikhaylov at the University of Birmingham, a leading expert in data science and text analysis. Claude2 was asked to test a specific hypothesis – that a PMB influenced a government bill – and was provided with the identified matching pairs for comparison. This analysis was carried out for all such 59 matching pairs identified from the previous methods, with the results leading to the discounting of one matching pair. All others were confirmed as matching.

Applying this combination of methods, a total of 58 PMBs were identified that influenced 55 of a total of 548 government bills from 2011-2022. This means that one in ten pieces of government legislation have been affected by an influencer PMB, all of which are listed in Table 8 below.

Box 3. Example of influencer PMB

Deputy Clare Daly sponsored the Coroners Bill in 2015. She had campaigned for a number of years to make inquests into maternal and perinatal deaths mandatory. There were twenty-seven such deaths between 2011 and 2013, but only three inquests. Deputy Daly's Coroners Bill, at 68 pages with 92 sections, was quite extensive and sought the establishment of a permanent Coroners Service. While the bill lapsed with the dissolution of the 31st Dáil in 2016, the minority Fine Gael government appointed in May that year took on the issue, introducing the Coroners Amendment Bill in 2018. A government source was reported as stating: 'The Bill is a response to Clare Daly's private members' bill which sought additional measures to improve the investigation of maternal deaths. It incorporates the amendments sought by Deputy Daly and also addresses other important reforms required by coronial law' (*The Irish Times*, 20 July 2018). The analysis from Claude2 stated 'The PMB helped set the agenda on coroner reform and shaped certain aspects of the government bill'. The bill was ultimately signed into law in June 2019.

There is merit in briefly highlighting one example (see Box 3) to understand what these influencer bills connote (two are also discussed in the case studies in the next chapter).

Table 8. List of influencer PMBs, 2011-22

| Primary Sponsor | Party | Bill |
|-----------------------|----------------|---|
| Louise O'Reilly | Sinn Féin | Redundancy Payments (Lay-off, Short Time and Calculation of Reckonable Service) Bill 2021 |
| Ged Nash | Labour | Regulation of Lobbying (Post-Term Employment as Lobbyist) Bill 2020 |
| Billy Kelleher | Fianna Fáil | Public Health (Tobacco) (Amendment) Bill 2012 |
| Pearse Doherty | Sinn Féin | Regulation of Lobbying (Amendment) Bill 2020 |
| Ivana Bacik | Labour Party | Irish Nationality and Citizenship (Naturalisation of Minors Born in Ireland) Bill 2018 |
| Marie Sherlock | Labour Party | Right to Flexible Work Bill 2022 |
| Francis Noel Duffy | Green Party | Defective Dwellings Bill 2021 |
| Noel Rock | Fine Gael | Prohibition of Above-cost Ticket Touting Bill 2017 |
| Máire Devine | Sinn Féin | Assisted Decision-Making (Capacity) (Amendment) Bill 2019 |
| Donnchadh Ó Laoghaire | Sinn Féin | Regulation of Private Security Firms Bill 2019 |
| Anne Ferris | Labour Party | National Archives (Amendment) Bill 2012 |
| Pádraig MacLochlainn | Sinn Féin | Coroners (Amendment) Bill 2015 |
| Ruth Coppinger | AAA/PBP | Thirty-fifth Amendment of the Constitution (Repeal of the Eighth Amendment) Bill 2016 |
| Aengus Ó Snodaigh | Sinn Féin | Gender Recognition Bill 2013 |
| Anne Ferris | Labour Party | Employment Equality (Abolition of Mandatory Retirement Age) Bill 2014 |
| Seán Fleming | Fianna Fáil | Freedom of Information (Amendment) (No. 2) Bill 2012 |
| Alice-Mary Higgins | Independent | Land and Conveyancing Law Reform (Amendment) Bill 2021 |
| Sean D. Barrett | Independent | Copyright and Related Rights (Innovation) (Amendment) Bill 2015 |
| Willie O'Dea | Fianna Fáil | Industrial Relations (Amendment) Bill 2011 |
| John McGuinness | Fianna Fáil | Valuation (Amendment) Bill 2012 |
| Colm Burke | Fine Gael | Medical Practitioners (Amendment) Bill 2012 |
| Katherine Zappone | Independent | Legal Recognition of Gender Bill 2013 |
| Ruth Coppinger | PBP/Solidarity | Prohibition of Fur Farming Bill 2018 |
| Catherine Murphy | Social Dems. | Thirty-fifth Amendment of the Constitution (Blasphemy) Bill 2017 |
| Paul Murphy | PBP/Solidarity | Animal Health and Welfare (Ban on Hare Coursing) Bill 2020 |
| Darragh O'Brien | Fianna Fáil | Statute of Limitations (Amendment) (Home Remediation-Pyrite) Bill 2012 |
| Alan Farrell | Fine Gael | Road Traffic (Amendment) (Personal Light Electric Vehicles) Bill 2021 |
| Bríd Smith | AAA/PBP | Protection of Life During Pregnancy (Amendment) Bill 2017 |
| Billy Kelleher | Fianna Fáil | Prohibition on use by Children of Sunbeds and Tanning Devices Bill 2012 |
| Catherine Murphy | Social Dems. | Consumer Rights (Gift Vouchers) Bill 2017 |
| John McGuinness | Fianna Fáil | Local Government (Rates and Miscellaneous Provisions) Bill 2014 |
| Averil Power | Fianna Fáil | Adoption (Identity and Information) Bill 2014 |
| Michael McGrath | Fianna Fáil | Personal Injuries Assessment Board (Amendment) Bill 2018 |
| Ivana Bacik | Labour Party | Controlled Drugs and Harm Reduction Bill 2017 |
| Paul McAuliffe | Fianna Fáil | Road Traffic (All-Terrain Vehicle & Scrambler Motorcycle) (Amendment) Bill 2020 |
| Grace O'Sullivan | Green Party | Micro-plastic and Micro-bead Pollution Prevention Bill 2016 |
| Pat Buckley | Sinn Féin | Assisted Decision-Making (Capacity) (Amendment) Bill 2017 |

| Primary Sponsor | Party | Bill |
|---------------------------|--------------|---|
| Willie O'Dea | Fianna Fáil | Employment Equality (Amendment) Bill 2016 |
| Marcella Corcoran Kennedy | Fine Gael | Criminal Law (Child Grooming) Bill 2014 |
| Eoin Ó Broin | Sinn Féin | Residential Tenancies (Amendment) (Extension of Notice Periods) Bill 2021 |
| Seán Kyne | Fine Gael | Civil Registration (Amendment) (Domestic Registration of Death Records) Bill 2012 |
| Dara Calleary | Fianna Fáil | Electoral (Amendment) (Political Donations) Bill 2011 |
| Ivana Bacik | Labour Party | Residential Tenancies (Tenants' Rights) Bill 2021 |
| Alan Kelly | Labour Party | Sick Leave and Parental Leave (Covid-19) Bill 2020 |
| Ivana Bacik | Labour Party | Civil Registration (Marriage Equality) Bill 2013 |
| Brendan Howlin | Labour Party | Equal Status (Admission to Schools) Bill 2016 |
| Anne Rabbitte | Fianna Fáil | Gambling Control Bill 2018 |
| Maurice Quinlivan | Sinn Féin | Sale of Tickets (Sporting and Cultural Events) Bill 2017 |
| Clare Daly | Independent | Coroners Bill 2015 |
| Jim O'Callaghan | Fianna Fáil | Judicial Appointments Commission Bill 2016 |
| Pearse Doherty | Sinn Féin | Consumer Credit (Amendment) Bill 2018 |
| Mattie McGrath | Independent | Merchant Shipping (Investigation of Marine Casualties) (Amendment) Bill 2019 |
| Ivana Bacik | Labour Party | Irish Human Rights and Equality Commission (Gender Pay Gap Information) Bill 2017 |
| Patrick Nulty | Labour/Ind. | Residential Tenancies (Amendment) Bill 2012 |
| Catherine Murphy | Social Dems. | Residential Tenancies (Amendment) Bill 2018 |
| Michael McGrath | Fianna Fáil | Credit Union (Amendment) Bill 2019 |
| Willie O'Dea | Fianna Fáil | Nursing Home Support Scheme (Amendment) Bill 2016 |
| Katherine Zappone | Independent | Residential Tenancies (Amendment) Bill 2015 |

3.2 Characteristics of influencer PMBs

Are certain types of PMBs more likely to be influencer PMBs? Does their capacity to influence depend on their sponsor, policy topic, or does the House of origin matter? And is a PMB's progress in the legislative process (as set out in section 2) connected to its influencer status? The following section seeks to address these questions.

Table 9 groups the 58 influencer PMBs by Dáil/Seanad and by policy issue using the data from the IPAP project. Looking at the parliamentary term, it shows that there is a similar number of influencer PMBs per Dáil; 22 for the 31st, 24 for the 32nd and 12 up to the end of 2021 in the 33rdDáil. The first figure is of particular interest because, as shown in section 2, fewer PMBs were approved at second stage in the 31st Dáil. Yet in spite of this, there were almost the same number of influencer PMBs in that Dáil as there were in the next Dáil when a minority government was in place.

3.2.1 Policy issue

Looking at policy issues, Table 9 demonstrates how different policy topics have dominated depending on the Dáil in question. A quarter of influencer bills in the 2011-2020 period were on health, while there are none to date in the 33rd Dáil (up to end 2022). Likewise, civil rights was a frequent topic of influencers in the 31st and 32nd Dáil but not the 33rd. Planning and housing has been to the fore in the 33rd Dáil, being the primary issue of almost half of the 10 PMB influencers (up to end 2022).

It is also possible to consider the characteristics of the government bills that are influenced by these PMBs. Table 10 lists government bills which have been linked to an influencer PMB by policy topic. In the 33rd Dáil, for example, four of the twelve government bills on planning and housing appear to have been influenced by PMBs. This raises a question as to whether particular policy areas are more likely to have been influenced by PMBs. Examining these Dáileanna as a whole, civil rights legislation was most frequently influenced, with seven (7) of the 22 government bills in this area being influenced; the next most influenced area is planning and housing (23%), followed by labour issues (18%), although the latter figure comprises just two bills. Planning and health are the only issues/topics to have been influenced in this way in each of the three Dáileanna considered.

Table 9. Breakdown of PMB Influencers by IPAP major topic (%), 2011-21

| Major topic | 31 st Dáil/ 24 th Seanad | 32 nd Dáil/ 25 th Seanad | 33 rd Dáil/ 26 th Seanad | Total |
|--------------------|---|---|---|-----------|
| Health | 23 | 25 | 0 | 20 |
| Civil rights | 27 | 13 | 0 | 16 |
| Banking | 5 | 33 | 0 | 16 |
| Planning & housing | 14 | 4 | 44 | 15 |
| Govt. operations | 14 | 0 | 0 | 5 |
| Labour | 5 | 0 | 22 | 5 |
| Transport | 0 | 4 | 22 | 5 |
| Agriculture | 0 | 4 | 11 | 4 |
| Law | 5 | 4 | 0 | 4 |
| Macroeconomics | 9 | 0 | 0 | 4 |
| Immigration | 0 | 4 | 0 | 2 |
| Environment | 0 | 4 | 0 | 2 |
| Education | 0 | 4 | 0 | 2 |
| Total | 22 | 24 | 12 | 58 |

Note: All figures outside of the total row and column (which are numbers of bills) are percentages.

Table 10. Proportion of government bills that were influenced by PMBs, 2011-21

| Major topic | 31 st Dáil/ 24 th Seanad | 32 nd Dáil/ 25 th Seanad | 33 rd Dáil/ 26 th Seanad | Total |
|--------------------|---|---|---|-------|
| Environment | 0 | 17(1) | 0 | 6 |
| Education | 0 | 33(1) | 0 | 7 |
| Labour | 22(2) | 0 | 0 | 18 |
| Agriculture | 0 | 0 | 50(1) | 11 |
| Health | 11(3) | 14(3) | 7(1) | 11 |
| Govt operations | 4(1) | 13(1) | 0 | 5 |
| Civil rights | 27(3) | 36(4) | 0 | 32 |
| Banking | 0 | 17(4) | 15(2) | 8 |
| Planning & housing | 17(2) | 14(1) | 33(4) | 23 |
| Social welfare | 0 | 0 | 0 | 0 |
| Law | 7(3) | 4(1) | 0 | 5 |
| Transport | 0 | 0 | 50(2) | 8 |
| Macroeconomics | 5(1) | 9(1) | 0 | 5 |
| Total | 15 | 17 | 10 | |

Note: the primary figures provided are the proportion of government bills by issue topic that are influenced by PMBs. The figures in parentheses are the number of PMBs involved.

The total of government bills influenced comes to 42, fewer than the 55 mentioned in the text because the 2022 data has not yet been coded by major topic by the IPAP.

3.2.2 House of origin, party and individual sponsors

In Table 11, influencer PMBs are broken down by house of origin, party of sponsor, and some attributes of their individual sponsor. The aim of this analysis is to see if certain types of PMBs are more likely to be influential.

Concerning the party of the sponsor, we can see that Fianna Fáil had the most influencer PMBs in both the 31st and 32nd Dáileanna, but not the 33rd (to end 2022), which is not surprising as it is in government in this Dáil. The party with the most impact relative to its size is the Labour party, which has sponsored 18% of all influencer PMBs, despite having a relatively small parliamentary party in both the 32nd and 33rd Dáileanna. The final two columns in Table 11 indicate the overall breakdown of influencer bills across all three Dáileanna by party sponsor as a percentage of all influencer bills and then as a percentage of all PMBs. So, while Sinn Féin sponsored 16% of influencer PMBs, it sponsored 25% of all other PMBs, suggesting its bills are having less of an impact on government. The same result is true for independents, while it is the opposite for Labour.

Table 11 shows that influencer PMBs are no more likely to emerge from either house of parliament, as the three to one ratio of Dáil to Seanad PMBs is the same for both influencer and other PMBs. There was a difference between Dáileanna, with the ratio being two to one for the 2011-16 parliament, before doubling for its two successors.

We also looked at the attributes of the individual sponsors of PMBs. We considered whether those sponsoring influencer PMBs might have had (1) more parliamentary experience than the other sponsors of PMBs, (2) sponsored more PMBs, or (3) came from a legal background. Table 11 suggests that while the number of years spent in the Oireachtas has little effect, those sponsoring influencer PMBs are likely to sponsor more PMBs in general and more than twice as likely to have a legal background. It is likely therefore that experience in drafting PMBs and also legal training can help parliamentarians in making their PMBs influential, although without considering the role of other variables, this finding is more suggestive than definitive.

Table 11. Breakdown of influencer PMBs, 2011-21

| | 31 st Dáil/ 24th Seanad | 32 nd Dáil/ 25th Seanad | 33 rd Dáil/ 26th Seanad | All Dáileanna/ Seanad | % Influencer PMBs | % Other PMBs |
|---------------------------|---------------------------------------|---------------------------------------|---------------------------------------|-----------------------------|-------------------------|-----------------|
| Party Sponsor | | | | | | |
| Fianna Fáil | 9 | 6 | 1 | 16 | 29 | 29 |
| Fine Gael | 3 | 1 | 1 | 5 | 9 | 6 |
| Sinn Féin | 2 | 5 | 2 | 9 | 16 | 25 |
| Labour | 3 | 4 | 3 | 10 | 18 | 10 |
| Independents | 5 | 1 | 1 | 7 | 13 | 18 |
| Green | 0 | 1 | 1 | 2 | 4 | 2 |
| AAA/Solidarity | 0 | 3 | 1 | 4 | 7 | 5 |
| Social Democrats | 0 | 3 | 0 | 3 | 5 | 2 |
| Originating house | | | | | | |
| Dáil | 15 | 19 | 8 | 42 | 75 | 76 |
| Seanad | 7 | 5 | 2 | 14 | 25 | 24 |
| Sponsor attributes | | | | | | |
| Years in Oireachtas | | | | | 7.9 | 7.9 |
| PMBs sponsored (2011-21) | | | | | 5.9 | 3.5 |
| Legal background (%) | | | | | 18 | 11 |
| N | 22 | 24 | 12 | 58 | 58 | 830 |

Note: the first four columns for both party sponsor and originating house are all whole numbers. The final two columns for these variables are proportions. Sponsor attribute figures comprise years, numbers of bills and proportions with a legal background.

3.2.3 Progress in legislative process

Finally, we saw in section 2 of this paper that some PMBs progress further than others in the legislative process and that progress represents the degree of political support behind a proposal. It might be expected, therefore, that influencer bills would be those that progress further in the legislative process. Is this the case?

Of the 58 influencer bills, 24 were approved at second stage while 24 either lapsed at second stage (i.e., before second stage had been taken) or were defeated at second stage. One lapsed at 1st, and the remaining PMBs are active at 2nd stage. Of the 24 approved at second stage, twelve remain active, one at fourth stage and eleven at third stage. Comparing the overall progress of influencer bills vis-à-vis all PMBs, there are no significant differences in the progress of the categories of bills to different legislative stages. In fact, the breakdown of the two sets of bills per stage is quite similar, with the only significant difference being that 41% of influencer PMBs make it beyond the second stage, compared to 31% of all PMBs.

The impact of detailed scrutiny was also considered, but it was difficult to read too much into this process because only five of the influencer bills had completed this process (with an additional three for whom it was underway). Overall, we cannot conclude that influencer bills are necessarily those that progress further in the legislative process.

3.3 Conclusion

Historical perceptions of the influence of PMBs may have been narrowly focused on their enactment, which added to the perception that they were seen as inconsequential. As has been shown in this section, however, influence can take the form of an indirect impact on government legislation, with approximately one in ten government bills in our dataset being influenced in this way. This is a significant finding and is the first time that such an impact has been both quantitatively and qualitatively measured in the Irish context.

The policy areas where PMBs were most likely to have an influence were health, planning and housing, and civil rights. Planning and housing is the only policy area to have been influenced in this way in each of the three Dáileanna considered. It was shown that influencer PMBs are no more likely to emerge from either house of parliament, while parliamentarians from a legal background and with more experience of legislative activity are more likely to have their PMBs have such an impact. It was also found that influencer PMBs are not more likely to have made greater progress in the legislative process and were not more likely to have undergone detailed scrutiny. Overall, these findings suggest that PMBs have a far greater impact than the 2% enactment rate might suggest. Other forms of impact are considered in the next sections.

Section 4: Impact on policy focus

4.0 Introduction

While the previous section considered the impact of specific PMBs on government legislation, here the point of interest is the collective effect of PMBs on the government's policy focus. It is possible that the introduction of many PMBs with a similar policy focus puts pressure on the government to initiate policy in this area. A study of legislative activity in the British House of Commons in the 1990s found that repeated questions on immigration policy by Conservative party backbenchers motivated the Labour Party to develop a harder line on this issue, to which it had previously given little attention (Seeberg 2023). The research question considered here is whether multiple PMBs on the same policy topic can prompt government to take legislative action in that policy area?

4.1 Methods

There are different ways to measure policy focus, but the most straightforward, and the method adopted here, is to look at legislative focus. Legislation is the direct product of policy preference; when a government in Ireland wishes to make policy, it primarily does so through legislation. Parliamentary bills constitute a clear indicator of genuine intent on an issue as opposed to a manifesto or a parliamentary speech, which could be more aspirational.²¹

Step 1: Assigning a policy topic category to each PMB

To measure the policy focus for our dataset of bills, we use data from the Irish Policy Agendas Project (IPAP) which categorised all government and private members' bills into policy topics. For every year between 2011 and 2021 (inclusive), government bills and PMBs were categorised into the 21 policy topics identified in the IPAP.

Step 2: Assessing to what extent, if at all, does the policy focus of PMBs motivate the government into action

Statistical techniques were used to determine if a change in policy emphasis of PMBs is followed by a change in government policy (through legislation) in the same area. The dependent variable is 'government policy focus' measured by the number of government bills, and proportion of the total of all government bills, per policy topic each year. The specific method adopted is to calculate a basic measure of covariance known as a Pearson's correlation coefficient, which analyses the linear relationship between government and PMB legislative activity. In particular, we consider the pattern of policy emphasis of PMBs (i.e., the number of PMBs in a policy topic per year and proportion of total PMBs) and that of government bills for the same policy topic. The correlation assesses the extent to which there is a similarity or association between the spread of measures for two different items. For example, if the number of bills a government introduced on crime went up or down in exactly the same ratio as PMBs on crime then we would get a very strong positive score for correlation (which goes from -1, a perfect negative correlation to +1, a perfect positive correlation).

21 The government's legislative programme could also have been considered, which is introduced by the chief whip at the beginning of every parliamentary session. Since this programme just lists bills the government has introduced (or is going to), it is little different than using the list of bills the government introduces on an annual basis, which is the chosen measure of policy intent here.

Step 3: Accounting for time lags

Three different time lag periods were analysed to account for the fact that it would take some time for PMB activity in an area to impact on government's policy focus. Separate one-year, two-year and three-year time lags are all considered. This means that the level of PMB activity in a topic across year X was correlated with government legislative activity in the same topic for year X+1 for a one-year lag, X+2 for a two-year lag, and X+3 for a three-year lag.

We compared both the number and proportion of PMBs introduced per each of these topics for each of the eleven years in the dataset with the same figures for government, taking note of the time lag considerations. It should also be noted that there are two limitations involved in the time lag analysis. First, eleven years is a short time period, and when the bills are divided across eleven years and twenty-one categories, the numbers of bills involved are quite small. Second, the statistical analysis focuses on the issues where there was more government activity, i.e., we bypass the policy areas on which few bills were introduced. These topics are evident from Tables 12 and 13, and include defence, immigration, agriculture, and science and communications. Any such analysis on these topics would lack validity due to the small numbers involved. Instead, the focus is on the policy topics with a greater volume of legislation. These include health, planning, civil rights, law, banking & commerce, and government operations.

4.2 Findings

Table 12 details the number of government bills enacted during the relevant eleven-year period by policy topic, and Table 13 details the number of PMBs introduced during the same ten-year time period by policy topic. The tables allow us to compare the legislative (policy) focus of both government and PMB activity. If a government introduces more legislation in a policy area (as a proportion of its total volume of legislation), the assumption is that the government is giving more focus to this policy area.

Table 12. Government bills by policy topic, 2011-21

| Policy topic | 31 st Dáil/ 24 th Seanad | | 32 nd Dáil/ 25 th Seanad | | 33 rd Dáil/ 26 th Seanad | |
|-----------------------------|--|-------------|--|-------------|--|-------------|
| | No. bills | % all bills | No. bills | % all bills | No. bills | % all bills |
| Law, crime & family law | 41 | 16 | 28 | 19 | 11 | 13 |
| Banking & commerce | 37 | 14 | 23 | 15 | 13 | 16 |
| Health | 28 | 11 | 22 | 15 | 14 | 17 |
| Macroeconomics | 20 | 8 | 11 | 7 | 8 | 10 |
| Govt operations | 28 | 11 | 8 | 5 | 2 | 2 |
| Planning & housing | 12 | 5 | 7 | 5 | 12 | 15 |
| Civil rights, minorities | 11 | 4 | 11 | 7 | 0 | 0 |
| Social welfare | 10 | 4 | 9 | 6 | 4 | 5 |
| Transportation | 19 | 7 | 1 | 1 | 4 | 5 |
| Environment | 8 | 3 | 6 | 4 | 1 | 1 |
| Education | 9 | 4 | 3 | 2 | 3 | 4 |
| International affairs & aid | 5 | 2 | 7 | 7 | 1 | 1 |
| Labour & employment | 9 | 4 | 1 | 1 | 1 | 1 |
| Agriculture | 5 | 2 | 2 | 1 | 2 | 2 |
| Defence & neutrality | 4 | 2 | 4 | 3 | 0 | 0 |
| Public lands, natural | 4 | 2 | 0 | 0 | 4 | 5 |
| Energy | 6 | 2 | 0 | 0 | 1 | 1 |
| Cultural policy | 3 | 1 | 2 | 1 | 0 | 0 |
| Science & comms. | 3 | 1 | 2 | 2 | 0 | 0 |
| Immigration & refugees | 1 | 1 | 0 | 0 | 1 | 1 |
| Total | 263 | | 147 | | 82 | |

Table 13. Private Members' Bills by Policy topic, 2011-21

| Topic | 31 st Dáil/ 24 th Seanad | | 32 nd Dáil/ 25 th Seanad | | 33 rd Dáil/ 26 th Seanad | |
|-----------------------------|--|-------------|--|-------------|--|-------------|
| | No. bills | % all bills | No. bills | % all bills | No. bills | % all bills |
| Law, crime & family law | 42 | 13 | 46 | 13 | 13 | 9 |
| Banking & commerce | 41 | 13 | 33 | 9 | 9 | 6 |
| Health | 34 | 11 | 36 | 10 | 16 | 10 |
| Govt operations | 42 | 13 | 25 | 7 | 12 | 8 |
| Civil rights, minorities | 37 | 12 | 21 | 6 | 11 | 7 |
| Planning & housing | 29 | 9 | 55 | 16 | 30 | 20 |
| Labour & employment | 14 | 4 | 26 | 7 | 20 | 13 |
| Macroeconomics | 6 | 2 | 6 | 2 | 8 | 10 |
| Social welfare | 7 | 2 | 12 | 3 | 6 | 4 |
| Transportation | 7 | 2 | 15 | 4 | 7 | 5 |
| Environment | 10 | 3 | 15 | 4 | 9 | 6 |
| Education | 11 | 3 | 14 | 4 | 3 | 2 |
| International affairs & aid | 4 | 1 | 1 | 0.3 | 1 | 1 |
| Agriculture | 3 | 1 | 8 | 2 | 4 | 3 |
| Defence & neutrality | 3 | 1 | 4 | 1 | 1 | 1 |
| Public lands, natural | 4 | 1 | 3 | 1 | 2 | 1 |

| Topic | 31 st Dáil/ 24 th Seanad | | 32 nd Dáil/ 25 th Seanad | | 33 rd Dáil/ 26 th Seanad | |
|------------------------|--|-------------|--|-------------|--|-------------|
| | No. bills | % all bills | No. bills | % all bills | No. bills | % all bills |
| Energy | 11 | 3 | 11 | 3 | 6 | 4 |
| Cultural policy | 1 | 0.3 | 4 | 1 | 1 | 1 |
| Science & comms. | 9 | 3 | 12 | 3 | 0 | 0 |
| Immigration & refugees | 2 | 1 | 5 | 1 | 2 | 1 |
| Total | 317 | | 352 | | 161 | |

Table 12 shows that the governments' legislative focus remained fairly consistent across the three parliaments, with law, banking and commerce, and health consistently being the three most common of the policy topics addressed by legislation. In total, these three areas comprised between 40% and 50% of government legislation across the three Dáileanna, with the remainder of government bills scattered across a wide number of policy topics. The one exception to this pattern is planning and housing. While housing was the focus of just 5% of government bills in the 31st Dáil, in the 33rd Dáil, 15% of government bills (up to end of 2021) had concerned housing. In other words, there was a slight change in policy focus with the new coalition government compared to the two previous administrations.

The policy focus of PMBs (Table 13) was quite similar to that of the government in the 31st Dáil, the only difference being that bills on civil rights exceeded the number on macroeconomics. It is noticeable from Tables 12 and 13 that something of a divergence occurred between the content of government bills and PMBs in the 32nd Dáil, which continued on to the 33rd Dáil. First, the number of PMBs concerning law and banking declined, comprising just 15% of PMBs in the 33rd Dáil, while they continued to take up 30% of government bills. Secondly, labour and employment issues began to take up a greater proportion of PMBs in the 32nd Dáil, while there were very few government bills on this topic. Thirdly, it was in the area of planning and housing that the greatest change occurred; PMBs on housing and planning were 9% of all PMBs in the 31st Dáil, 16% in the 32nd Dáil and made up 20% of PMBs in the 33rd Dáil (up to 2021). The number of government bills also increased in this area, although not until the 33rd Dáil (15% of government bills in the 33rd Dáil until the end of 2021). The legislative attention given to health has increased for government but has remained at a constant amongst PMBs (comprising 10% of all such bills). Policies around justice and banking have a greater priority amongst government, although PMBs now take a greater interest in macroeconomics than previously. Finally, labour and employment is a policy area on which PMBs place a greater emphasis than government.

Moving to the question of whether PMBs are acting as a type of agenda setter for the legislative activity of government: if PMBs are agenda setting, then the expectation is that the policy focus of PMBs will be mirrored by the government's own policy focus (in terms of legislative output) in successive years. For the purposes of interpreting the following findings a small correlation coefficient (less than 0.2) indicates there is no relationship.

The results of the correlations are detailed in Table 14, where the figures are the coefficients for the individual correlations per policy topic between the spread of PMBs and government bills as per the stated time lags. For example, in the policy area of civil rights and minorities, the distribution of PMBs over the time period of concern has a negative relationship with the spread of government bill activity from each of the three years following on, as indicated by the negative coefficients. This indicates that as the PMB policy focus on a topic (as per the number of bills) increases, it declines for government. It suggests that for this policy area PMBs are not an agenda-setter. In contrast, in the area of law, while the level of correlation for the policy focus of PMBs and government bills over a one year and two-year lag is negligible, there is a relatively large coefficient for a three-year lag. This suggests that the pattern of government legislative activity across the period somewhat mirrors that of PMBs introduced three years previously.

A similar pattern was found for banking and commerce, but the rest of the coefficients for the three-year time lag were negative, suggesting that PMB activity in a policy area is associated with less government legislative output. It is difficult to come to clear conclusions from these results as there are a number of very small correlation coefficients (0.15 or less), suggesting that the distribution of government bills does not follow that of PMBs from previous years. There are also a number of modestly large negative coefficients, indicating that the distribution of government bills in fact went in the opposite direction to the focus of PMBs. This was the case for civil rights over a two-year time lag and planning over a three-year time lag.

Table 14. Correlations of government bills vs. PMBs over distinct time frames, 2011-2021

| Policy topic | One year lag | Two-year lag | Three-year lag |
|---------------------------|--------------|--------------|----------------|
| Civil rights & minorities | -0.15 | -0.50 | -0.08 |
| Health | -0.14 | 0.40 | -0.08 |
| Law, crime & family law | 0.02 | 0.00 | 0.51 |
| Planning & housing | 0.01 | -0.06 | -0.72 |
| Banking & commerce | -0.07 | -0.07 | 0.37 |
| Government operations | -0.34 | 0.13 | -0.28 |

4.3 Conclusion

In general, it is difficult to come to any firm conclusions as to whether PMB activity can motivate governments to act. The overall policy focus of government, as measured by the volume of legislative activity in particular areas, does not closely mirror that of PMBs introduced in previous years. There is only limited evidence to suggest it can do so in specific policy areas, but the caveat with these results is that we are dealing with very small pairs of data. It is certainly the case that in recent years PMBs are more likely to focus on some different policy topics to those of government bills, but that is the extent of what we can be confident about in terms of the effect of PMBs on a government’s policy focus.

Section 5: The impact of PMBs on public awareness

5.0 Introduction

A PMB may not become law, and may not appear to directly influence government legislation, but it might contribute to greater public debate around a policy issue, policy debate or greater public awareness of a party or public representative's position on a policy issue. The first section (5.1) considers the extent to which the issues raised in PMBs reflect the policy priorities of the public. Following this, and in a separate analysis (5.2), we consider if PMBs increase the media coverage of an issue, which can lead to greater public discourse around said issues.

5.1 Issues raised by PMBs and issues of concern to the public

We first considered whether the issues raised in PMBs reflect the topics which appear to be of concern to the public. We want to compare the policy priorities of parliamentarians and the public. Are PMBs on issues deemed pressing by the public or is there a gap in their preferences? The rationale of this analysis is that we cannot expect PMBs to have an impact on public discourse if they are not covering the policy priorities of the public.

5.1.1 Methods

To consider this question we compared the annual breakdown of the policy topics covered by PMBs with data from the Eurobarometer survey on the most important topics facing the country. This allows us to see if the issues the public rank as pressing are reflected in PMB legislative activity.

Establishing the breakdown of PMBs on an annual basis per issue topic: This was done using data from the IPAP project, which categorises legislation into over 20 major policy issues.

Assessing public opinion on issues on an annual basis: This was done using the annual Eurobarometer survey,²² which asks voters in every EU member state to name the two most important issues facing their country. While the list of issues is not exactly the same as the IPAP categories, it is similar enough for comparison.

22 <https://europa.eu/eurobarometer/>

5.1.2 Findings

Table 15 lists PMBs by issue topic and Table 16 lists the most important issues as perceived by the public in Eurobarometer surveys for the same eleven-year time period (2011-2021).

Table 15. Annual proportion of PMBs proposed per topic in Dáil & Seanad (%), 2011-2021

| Topic | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|--------------------------|------|------|------|------|------|------|------|------|------|------|------|
| Law/crime/family law | 24 | 7 | 13 | 17 | 15 | 16 | 11 | 8 | 18 | 7 | 9 |
| Banking & commerce | 19 | 13 | 16 | 8 | 12 | 7 | 11 | 9 | 9 | | 8 |
| Health | | 15 | 11 | 9 | 12 | 11 | 8 | 12 | 11 | 9 | 11 |
| Govt operations | 29 | 16 | 5 | 12 | 15 | 10 | 9 | 3 | 8 | 14 | 5 |
| Civil rights, minorities | 5 | 8 | 20 | 17 | 5 | 11 | 7 | 4 | | 7 | 7 |
| Planning & housing | | 11 | 6 | 9 | 14 | 12 | 12 | 19 | 18 | 23 | 18 |
| Labour/employment | 14 | 3 | 4 | 2 | 4 | 8 | 7 | 8 | 6 | 14 | 13 |
| Macroeconomics | 5 | 2 | 3 | 3 | | | 1 | 4 | 2 | | |
| Social welfare | | 3 | 5 | 2 | | | 2 | 6 | 6 | 2 | 5 |
| Transportation | | 3 | 3 | | 1 | 2 | 5 | 4 | 8 | 5 | 5 |
| Environment | | 3 | 3 | 8 | 1 | 6 | 2 | 3 | 6 | | 8 |
| Education | | 7 | 1 | 2 | 6 | 2 | 7 | 3 | 2 | 2 | 2 |
| International affairs | | | | 3 | 3 | | 1 | | | 2 | |
| Agriculture | | | | | 3 | | 4 | 1 | 3 | 5 | 2 |
| Defence & neutrality | | 2 | | 2 | | 1 | 2 | 1 | | | 1 |
| Public lands, natural | | 2 | | | 1 | 2 | 1 | 2 | | 2 | 1 |
| Energy | 5 | 2 | 6 | 5 | | 7 | 3 | 2 | | 2 | 5 |
| Cultural policy | | | | | 1 | | 1 | 2 | 2 | | 1 |
| Science & comms. | | 3 | | 2 | 5 | 2 | 5 | 3 | 3 | | |
| Immigration/refugees | | | | 2 | 1 | 1 | 2 | 2 | | 5 | |
| Foreign trade | | | | | | | | 1 | | | |

Note: Blank cells mean that no PMBs were introduced on that topic in a relevant year.

These tables allow us to make some observations about the priority accorded to issues by the public and by parliamentarians. For example, Table 15 shows that the proportion of PMBs in law, banking and government operations steadily declined over this period and the importance of issues around the economy and unemployment to the general public also declined. In contrast, the proportion of PMBs around planning and housing steadily increased over this time period, a trend which appears also to mirror public opinion in this matter. According to the survey data, few people deemed housing to be one of the most important issues facing Ireland in 2011, 2012 and 2013, but by 2016 46% ranked it as one of the two most important issues and this trend continued until the emergence of the Covid pandemic in 2020. It took a couple of years for parliament to follow suit, as it took until 2018 for the proportion of all PMBs in the area of planning and housing to increase.

Table 16. Public perception of most important issues facing Ireland, 2011-2021

| Issue | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
|--------------------|------|------|------|------|------|------|------|------|------|------|------|
| Health | 12 | 9 | 11 | 18 | 30 | 37 | 38 | 41 | 41 | 50 | 54 |
| Economic situation | 51 | 55 | 38 | 31 | 16 | 13 | 11 | 8 | 11 | 29 | 25 |
| Unemployment | 68 | 62 | 67 | 52 | 43 | 26 | 17 | 14 | 9 | 18 | 19 |
| Inflation | 15 | 15 | 16 | 12 | 18 | 14 | 18 | 20 | 16 | 17 | 17 |
| Environment | 1 | 1 | 1 | 2 | 3 | 4 | 5 | 7 | 17 | 16 | 14 |
| Education | 4 | 3 | 3 | 4 | 7 | 5 | 7 | 5 | 7 | 7 | 8 |
| Immigration | 4 | 6 | 7 | 7 | 7 | 7 | 8 | 7 | 7 | 2 | 2 |
| Housing | 0 | 2 | 3 | 12 | 23 | 45 | 50 | 56 | 54 | 37 | 35 |
| Crime | 11 | 11 | 16 | 20 | 0 | 20 | 13 | 12 | 13 | 3 | 4 |
| Govt debt | 15 | 22 | 15 | 17 | 13 | 9 | 8 | 5 | 0 | 12 | 0 |
| Taxation | 5 | 8 | 13 | 17 | 12 | 7 | 8 | 6 | 5 | 5 | 0 |

Note: Two most important issues as per public opinion from Eurobarometer data (<https://europa.eu/eurobarometer/screen/home>). Figures given are percent of respondents citing said issues.

Do these general observations constitute a pattern? To assess the strength of the association between the two sets of data in Tables 15 and 16, a correlation analysis was undertaken. Not all issues could be considered due to the lack of comparability as the IPAP and Eurobarometer survey do not use the same categories. Because we are only dealing with a short period of eleven years, the significance of the results cannot be overemphasised, but they do facilitate a consideration of whether there is an association in the priorities given to different topics by the public and parliamentarians. With a correlation we are not comparing specific years of figures, but rather the pattern of emphasis over the eleven-year period. Overall, eight policy areas could be compared, the results for which are in Table 17.

Table 17. Correlation coefficients on PMB activity & issue concerns of public, 2011-2021

| Policy Issue | Correlation coefficient |
|--------------|-------------------------|
| Crime | 0.33 |
| Health | -0.40 |
| Environment | 0.20 |
| Housing | 0.65 |
| Education | -0.24 |
| Immigration | -0.14 |
| Employment | -0.30 |
| Economy | 0.40 |

In the area of housing especially, followed by the economy and crime, we can see that PMB activity generally reflected public concerns. For the issue of health there was a significant negative coefficient (-0.40), with the increased importance of this to the public not matched with PMBs (as the proportion of PMBs on the area of health remained fairly consistent). The reverse was true of labour and employment, where this issue declined in salience for the public (as the economy improved), but the share of PMB activity in this area increased over the eleven years.

Overall, what Tables 15 to 17 suggest is that in some areas PMB activity mirrors that of public opinion; this is the more reasonable conclusion than any suggestion that one necessarily follows on from or influences the other.

5.2 Do PMBs impact on public discourse around an issue?

In the absence of specific polling data, a proxy is needed to measure public discourse. For this study, media coverage of a PMB is used as a proxy for public awareness. Specifically, we use how frequently an issue is mentioned in national and regional Irish newspapers as a measure of public awareness, with the assumption being that the more coverage an issue receives the greater is public awareness of said issue. Media coverage is frequently used as a proxy for public awareness. For example, Neresini *et al.* (2014) found a high correlation between the two, and even accounting for the fact that the level of causation was not established, we are confident in the claim that media coverage can be used to explore public attitudes.

5.2.1 Methods used whether PMBs raise public awareness of an issue

To test our hypothesis that PMBs raise public awareness of an issue, several steps were undertaken: (1) a sample of PMBs was created, (2) the issue/topic of each PMB was identified, (3) media coverage of this issue before and after the introduction of a PMB was measured, and (4) a statistical test was applied to determine the significance of the observed relationship. Each step is described briefly below.

Step 1: Random selection of PMBs

A sample of fifty bills was chosen at random from the pool of 883 PMBs using the random command in STATA, a statistical software package. Such a method is valid because when randomly drawn, and with a sufficient sample size, it is possible to make inferences about the whole dataset. Previous analyses of PMBs used samples (e.g., Bowler 2010) due to the large volume of legislation involved.

Step 2: Identification of topic and sub-topic

To identify the issues being covered by the PMB, each bill within the sample was read. In most cases this review was relatively straightforward, with the issue usually identifiable from the title of the bill. However, in cases where more vague language was used, the search was for how the issue of relevance would be expected to be covered in the media. For example, the Local Government (Amendment) Bill 2017 concerned a proposal 'to ensure that the county status of a community shall not be altered without the explicit consent of the majority of its electorate'. The search terms used were 'county boundary' and 'consent' and 'people'.

Step 3: Reviewing media coverage

Once the issue was identified, and search terms were created for each PMB, Factiva²³ was used to count the number of times the issue central to a PMB was covered in separate media stories in the national and provincial press since the bill was introduced (up until April 2023) and for the same length of time before its introduction. All national (*Irish Times*, *Irish Independent*, *Irish Examiner*) and provincial newspapers covered in Factiva were considered. Every article that mentioned the issue is treated as a single unit, regardless of its length, or the newspaper, or page number in which it appeared. The data was then examined to compare the media coverage of the issues raised in the 50 PMBs before and after the introduction of the PMBs.

23 Factiva is a self-described online 'business intelligence platform' with content from tens of thousands of media sources ([dowjones.com](https://www.dowjones.com)).

Step 4: Statistical analysis

We then applied a statistical test (a t-test comparison of sample means) to gauge whether the difference in coverage, if there is one, was statistically significant.

5.2.2 Findings

The results of the analysis showed that seventeen of the fifty bills in the sample attracted very little coverage in the media either before or after the introduction of a PMB (defined as fewer than ten mentions in total before and after the introduction of the bill). Of the thirty-three other PMBs, in thirty cases media coverage was considerably higher after the issue had been the subject of a PMB and only three cases deviated from the pattern. In these three cases the level of coverage of the respective issue did not vary greatly before and after the introduction of a relevant PMB.

Looking at the entire sample of fifty PMBs, the issues covered in these bills received a mean coverage of 388 articles per PMB in the national and provincial press after the introduction of each PMB. Comparing this to the coverage before the PMB, the same issues received a mean mention of 196 articles. What this means is that, on average, the media coverage of an issue was double the coverage of the issue prior to the introduction of a PMB. A statistical t-test was applied to these two sample means to see if the difference could be due to chance. The probability of this was so low to be negligible (<0.0001), meaning that we can be quite confident that the differences in these two means is real and significant.

There are obviously other factors that could result in the increased media coverage of an issue, such as increased campaign activity by interest groups, events that spark an interest in the issue, or actors within the media taking an interest themselves in an issue, whether through an investigative campaign or other similar actions. Considering all these additional variables is beyond the scope of this study, but, given the sizeable increase in media coverage that results post-PMB sponsorship we can be reasonably confident of assuming that PMBs would hold their significance in such a study.

5.3 Conclusion

In some policy areas the issues covered by PMBs tend to reflect public opinion in that both parliamentarians and the public give the same priorities to particular policies. In the area of housing especially, followed by economy and crime, it was shown that PMB activity generally reflected public concerns. This is not true for all policy topics, as the increased importance of health for the public has not been matched with a concomitant increase in PMB legislative activity; for labour-related issues, the reverse relationship is true as parliamentarians have prioritised PMBs in this area. This mixed evidence means that PMB legislative activity is not wholly removed from the policy priorities of the public, a necessary precondition for PMBs to have an impact on public discourse. If PMBs were on issues about which the public had little concern, then we could not expect them to have an impact on public debate.

We attempted to measure the latter by considering media coverage as a proxy, our assumption (rooted in academic research) being that there is a high correlation between the levels of public interest in a topic and its coverage in the media. It was shown in our admittedly simple model that such coverage of an issue doubles when it is the subject of a PMB. This can be quite a considerable impact and one that warrants further investigation as it demonstrates the significance of PMBs beyond just their enactment. If PMBs are increasing public awareness around issues, then more attention needs to be given to their policy focus and how they can contribute to the development of norms and beliefs around such policies.

Section 6: Impact on issue ownership, sponsor's profile, and electoral performance

6.1 Issue ownership – association between a party/a public representative and an issue

Issue ownership is the extent to which a TD or party is perceived by the public to 'own' a particular issue. The TD or party who are said to own an issue are perceived to value it more than other parties, and possibly to be the most competent, or at least the most knowledgeable, in terms of dealing with the issue.

PMBs may be used to establish ownership; if TDs sponsor more PMBs than anyone else on an issue it could help to build their reputation as being the primary spokesperson or 'owner' of the issue. This could concern a local issue that a government may not wish to tackle or may be opposed to, such as the retention of hospital services, an issue about which no politician or party has yet taken an interest or position, or a high-profile and complicated political issue. PMBs may help to determine who gets to lead and direct such debate, and also the direction taken in discussions around such policies.

6.1.1 Methods

We test whether sponsoring PMBs leads to issue ownership for a parliamentarian and for a party. The hypothesis proposed is that the more PMBs on a specific issue that a parliamentarian sponsors, the more they are associated with this topic and the more the public perceive them to 'own it.' We use media coverage as a proxy for public awareness, and to establish 'issue ownership'. We search for media coverage which links a TD or Senator to issues on which they sponsor PMBs (i.e., that their name is mentioned in the media around the same issue). For example, is a particular TD mentioned more often in newspaper articles around the issue of greyhound welfare after he or she sponsors a PMB on this topic in the Dáil? If so, we can deduce from this that PMBs can facilitate issue ownership.

Step 1: Selection of PMBs

A sample of fifty bills was chosen at random from the pool of 883 PMBs. To identify the issues being covered by the PMB, each bill within the sample was read. In most cases this was relatively straightforward, with the issue usually identifiable from the title of the bill, but in cases where more legalistic or vague language was used, the search was for how the issue of relevance would be expected to be covered in the media.

Step 2: Media search

Using Factiva, we counted the number of times both the sponsor of the PMB and the issue that the PMB is concerned with are mentioned together during the time since the bill was introduced (up until April 2023) and during the same length of time before its introduction. All national (*Irish Times*, *Irish Independent*, *Irish Examiner*) and regional newspapers covered on Factiva were considered. Every article that mentions the PMB sponsor and the issue is treated as a single unit, regardless of its length or newspaper or page number in which it appeared.

6.1.2 Findings

There are very few mentions in the media (in the same article) of a PMB sponsor and the issue that the said bill is covering. Most of the results were single digit figures, i.e., they are mentioned in tandem just a handful of times. Either an issue is mentioned, or a sponsor is mentioned separately, but rarely were the theme of a PMB and its sponsor written about in the same newspaper article. This most likely reflects the limited coverage given to the details of the legislative process by the Irish media,²⁴ particularly PMBs. Those looking to receive media kudos or even acknowledgement for sponsoring a PMB would most likely need to seek a different path to establish issue ownership. This evidence suggests that PMBs are not establishing 'issue ownership' for sponsors.

While this analysis focused on individual parliamentarians, it is also possible to assess how PMBs can be used by parties to signal their policy or legislative agenda. For example, if TDs and Senators from the same party sponsor a considerable number of PMBs on a particular topic, one that is at least greater than their overall share of all PMBs published, then this might be taken as a cue for the party's policy emphasis. For example, if a party sponsored 10% of all PMBs, but 30% of all PMBs on law and justice, then we might presume that the latter topic is high on that party's policy agenda.

It is not possible to repeat the methodology of the issue ownership test here because within newspaper articles some parties may be commenting on others' PMBs, making it difficult to isolate media coverage per party. Instead, we use the data from the Irish Policy Agendas Project to examine a party's share of PMBs on each of the 21 major issue topics relative to their overall PMB numbers. This data is set out in Table 18, where the highlighted cells indicate a policy emphasis. The last row shows the proportion of all PMBs between 2011 and 2021 introduced by each party, while the other rows indicate the proportion of bills introduced by the parties per major topics. Only topics where at least twenty bills in total were introduced over the ten-year period were considered, as otherwise the breakdown per party involves very small numbers.

For example, Table 18 shows that Fianna Fáil sponsored 30% of all PMBs, but 45% of PMBs in the area of transportation. The proportions that deviated the most from the overall share for each party are highlighted (with coloured cells) to indicate policy emphasis. Data for the three Dáileanna from 2011-2021 are aggregated because the numbers involved per topic are not very large, and it would be difficult to read too much into them if they were further sub-divided again by three.

This is obviously not a very specific measure of a party's policy agenda, and we also have to take into account that parties in government are far less likely to introduce PMBs. So, for Labour (2011-16), Fine Gael (all years), Fianna Fáil (2020-21) and the Green Party (2020-21) these terms need to be taken into consideration. Nevertheless, it is still reasonable to assume that PMB emphases provide some indicator of a party's policy priorities.

24 Social media was outside the scope of this report.

Table 18. Parties' share of PMBs by policy topic, 2011-21

| Issue | Fianna Fáil | Fine Gael | Sinn Féin | Labour | Green | Indep. | Soc. Dems. | PBP | N |
|-----------------------|-------------|-----------|-----------|-----------|----------|-----------|------------|----------|------------|
| Macroeconomics | 50 | 17 | 17 | 8 | 0 | 8 | 0 | 0 | 12 |
| Transportation | 45 | 24 | 14 | 3 | 3 | 10 | 0 | 0 | 29 |
| Law | 42 | 8 | 17 | 7 | 0 | 25 | 0 | 0 | 101 |
| Social welfare | 32 | 0 | 36 | 12 | 0 | 12 | 8 | 1 | 25 |
| Planning & housing | 33 | 2 | 32 | 10 | 4 | 7 | 5 | 0 | 114 |
| Banking | 41 | 6 | 23 | 6 | 0 | 23 | 1 | 5 | 83 |
| Defence | 13 | 13 | 38 | 0 | 0 | 25 | 0 | 0 | 8 |
| Science | 29 | 0 | 24 | 33 | 0 | 10 | 5 | 13 | 21 |
| Foreign trade | 0 | 0 | 0 | 0 | 0 | 100 | 0 | 0 | 1 |
| International affairs | 17 | 17 | 17 | 17 | 0 | 17 | 0 | 0 | 6 |
| Civil rights | 28 | 6 | 26 | 12 | 0 | 19 | 4 | 3 | 69 |
| Government operations | 28 | 13 | 18 | 14 | 1 | 18 | 3 | 0 | 79 |
| Public lands | 22 | 0 | 78 | 0 | 0 | 0 | 0 | 0 | 9 |
| Cultural policy | 17 | 0 | 50 | 0 | 0 | 17 | 0 | 0 | 6 |
| Health | 28 | 12 | 19 | 8 | 0 | 24 | 0 | 2 | 86 |
| Agriculture | 13 | 0 | 20 | 0 | 0 | 33 | 0 | 20 | 15 |
| Labour | 22 | 0 | 38 | 20 | 0 | 7 | 0 | 13 | 60 |
| Education | 7 | 7 | 11 | 21 | 0 | 35 | 7 | 7 | 28 |
| Environment | 26 | 0 | 21 | 12 | 12 | 18 | 9 | 3 | 34 |
| Energy | 14 | 11 | 29 | 4 | 14 | 18 | 0 | 7 | 28 |
| Immigration | 11 | 0 | 11 | 11 | 0 | 44 | 0 | 22 | 9 |
| % | 30 | 7 | 24 | 10 | 2 | 18 | 2 | 4 | 823 |

Note: Each figure in the main cells is a proportion and is a share of all PMBs on a policy topic sponsored by a party. The proportions on each row total to 100. The last column is the number of PMBs per policy topic.

Summarising the findings from Table 18, Fianna Fáil had a greater emphasis on transport, law and banking, Sinn Féin on labour, social welfare, and planning and housing, Labour on education and labour, the Greens on environment and energy, independents on education, law and health, the Social Democrats on environment, social welfare, and education, and People Before Profit-Solidarity on education and labour. Because Fine Gael was in government on a continuous basis for this period, it is not appropriate to use PMBs here to estimate the party's policy agenda. Previous studies on issue priorities and voting behaviour at Irish elections found that there are not many cases of parties 'owning issues' (see for example, Cunningham and Marsh 2021: 236), that is, it is relatively rare that one party would Hoover up most votes around a single issue deemed important to voters. The fact that we find observable patterns at all is interesting, and several of these are in line with the few examples of issue voting that were observed at the 2020 election, notably Sinn Féin in housing, and climate change for the Greens and Social Democrats (Cunningham and Marsh 2023: 168-169). Parties may not own issues in the eyes of the electorate, but this does not mean that they might not like to do so, and their level of PMB activity in Table 18 can act as an indicator for what policy areas parties might like to prioritise.

While the findings might be more suggestive than definitive, if there was no relationship between PMBs and policy priorities, then the proportions within cells would not deviate much per party column. The fact that they do lends some tentative credibility to the hypothesis that PMBs are having a policy impact.

We next consider two further possible impacts of PMBs both of which relate to profile:

1. The first is the media profile of the sponsor (6.2). Our analysis of media coverage of PMBs in section 6.1 above found little evidence that sponsors attract ownership for specific issues from PMBs. However, it could be the case that sponsors attract greater general media attention as a result of their PMB activity.
2. The second impact of interest is the direct effect of the sponsorship of PMBs on sponsors' electoral profile, namely, does PMB activity appear to win votes (6.3)?

As noted in section 1, sponsors of PMBs can have many objectives and not all relate to legislative or policy impact (Cavari *et al.* 2023; Mattson, 1995; Nikolenyi and Friedberg 2019; Solvak and Pajala, 2015). Legislative activity can be a vote-winner for politicians for intrinsic reasons (e.g., because their supporters care how active the TDs and Senators are in parliament) or because of the issues they cover (e.g., the PMBs could be used to bring up local issues). A major emphasis in the literature explaining PMB activity is on what Bowler (2010) calls the 'electoral connection' (see also Kellerman 2013). Parliamentarians propose PMBs to garner favour with their local constituents, because a PMB is clear and tangible and something that can be easily highlighted during an election campaign as a measure of political activity. Research on PMB activity in Estonia and Finland found partial evidence to suggest that 'sponsoring bills that have no realistic chance of becoming actual regulations could be a form of personal reputation-building and/or vote-seeking behaviour' (Solvak and Pajala 2015: 52).

In the Irish context, it has been argued that the candidate-centred nature of the electoral system makes a personal reputation important for TDs (Gallagher 2023: 114-116). A personal reputation might be especially necessary for backbenchers in the Irish executive-dominant system where opportunities for influence in parliament are limited. Building on this literature we examine the impact of PMBs on the media profile and electoral prospects of sponsors.

6.2 Media impact

To examine the possible impact of PMB sponsorship on media profile, we explore whether the number of times a parliamentarian is mentioned in the media is associated with the number of PMBs they sponsor. The hypothesis of interest is that the more PMBs parliamentarians sponsor, the greater the level of coverage they receive in the media.

The reasoning behind this hypothesis relates to the 'electoral connection', which says that legislative behaviour can be explained by electoral concerns (Mayhew 1974). In this context, parliamentarians might be driven to engage in PMB activity if it gets them greater media coverage, which is generally associated with a greater electoral profile (i.e., more votes).

6.2.1 Methods

To test this hypothesis, a model derived by Bowler (2010) is replicated, which considers the relationship between PMB activity and media coverage. To measure media coverage, the variable of interest is how many times a TD is mentioned in a newspaper in the lifetime of a Dáil. Separate models were conducted for the 31st and 32nd Dáileanna.²⁵ The focus of the analysis is on comparing the media coverage of the most active sponsors of PMBs against the most infrequent sponsors of PMBs (those outside of government who never sponsor such bills). The methods used are as follows:

Step 1: Count of Members' PMB activity

To measure PMB activity, the number of PMBs introduced in the lifetime of each Dáil was counted for every TD in the study. Replicating Bowler's methodology, only the top ten proposers of PMBs were considered.

Step 2: Media search

Using Factiva, the name of the TD was searched for in all the main national newspapers (*The Irish Times*, *Irish Examiner*, *Irish Independent*, *Sunday Independent*, *Sunday Times*, *Irish Daily Mail*, *Irish Mail on Sunday*, *The Herald*, and *The Times* (Ireland edition)) and the regional newspapers from February 25, 2011 (the date of election for the 32nd Dáil) to 31 December 2015. Each article that mentioned a TD was treated as a single unit. If an article mentioned a TD ten times and another once they both got the same value of one. This is to lessen the impact of potential outlier articles where a TD was mentioned many times, and which could bias results.

The term TD was not included in the search because in many cases this title was specifically not mentioned when the TD's name was mentioned. The Dáil sat until January 2016, with the next election being held on February 25, 2016. The search stopped at the end of 2015 to counter for TDs not running again in 2016; they would be much less likely to be mentioned in the coverage of the election campaign than those running.

A separate process was repeated for the 32nd Dáil from the dates February 25 2016 to 31 December 2019.

Step 3: Establishing a counterfactual

In order to assess any likely relationship between media coverage and PMB sponsor profile, the most active PMB sponsors were compared with a randomly chosen set of ten backbenchers who introduced no private members' bills in the Dáil.

The form of comparison adopted replicates that of Bowler (2010), comparing the average number of mentions on Factiva of the most prolific sponsors of PMBs vis-à-vis the average number of mentions on Factiva for the least prolific sponsors. We do not anticipate strong support for the hypothesis, because it might be expected that particular TDs get media coverage because of their profile and not because of PMB activity, especially since PMBs do not receive an extensive level of coverage from the media in Ireland. Consequently, while we might find TDs with many PMBs receiving not much media coverage, we might equally find TDs who sponsor no PMBs getting plenty of such coverage.

25 Senators were excluded because they are elected indirectly.

Step 4: Controlling for other potential influential factors

To assess the extent of attribution for PMB activity, we control for other factors using a statistical technique called an ordinary least squares (OLS) regression. This method allows us to include other relevant variables that can have an electoral impact in order to determine the unique effect of each while holding constant the other variables.

6.2.2 Findings

The results for the two Dáileanna are provided in Tables 19 and 20, and they suggest strong levels of support for the hypothesis as greater PMB activity seems to be associated with greater media coverage. For the 31st Dáil, the top 10 PMB proposers includes four Fianna Fáil TDs, led by Deputy Niall Collins with 13 PMBs, three Sinn Féin TDs, four Independents, and Deputy Peadar Tóibín, Aontú's sole TD, who introduced eight PMBs. The average number of articles in which these TDs were mentioned in the national and regional press during the five years of that Dáil was 1,295. This is more than four times the average number of mentions of the randomly chosen set of parliamentarians (non-ministers) who introduced no private members' bills in this Dáil. The significance of this difference is confirmed by a statistical measure known as a t-test. The t-statistic provided was so large that we have to conclude the difference between the two sample means is real.

Table 19. Top PMB proposers and media coverage (2011-16)

| | Name | | Party | No. PMBs | Factiva mentions |
|-----------|---|---------------|----------------|----------|------------------|
| 1 | Niall | Collins | Fianna Fail | 13 | 1628 |
| 2 | Michael | McGrath | Fianna Fail | 10 | 3048 |
| 3 | Peadar | Toibin | Aontu | 8 | 466 |
| 4 | Sean | Fleming | Fianna Fail | 7 | 917 |
| 5 | Padraig | Mac Lochlainn | Sinn Fein | 7 | 230 |
| 6 | Willie | O'Dea | Fianna Fail | 7 | 1174 |
| 7 | Brian | Stanley | Sinn Fein | 7 | 355 |
| 8 | Clare | Daly | Inds. 4 Change | 6 | 1936 |
| 9 | Pearse | Doherty | Sinn Fein | 6 | 1993 |
| 10 | Mattie | McGrath | Independent | 6 | 1207 |
| | <i>Average</i> | | | | 1295 |
| | <i>Average for random 10 backbenchers who proposed 0 PMBs</i> | | | | 311 |

Note: The Factiva search is to 31.12.15 of all Irish national and regional newspapers.

Table 20 replicates this model for the 32nd Dáil, and it shows something similar, with the top 10 proposers of PMBs mentioned three times more frequently in newspapers than the random selection of TDs who were not the major sponsor of any PMBs. This difference was again confirmed by a statistical t-test. Given the expectation that we might not have found strong support for the stated hypothesis, the differences in the level of media coverage between the two groups of parliamentarians is quite a strong finding.

Table 20. Top PMB proposers and media coverage (2016-20)

| | Sponsor | | Party | No. PMBs | Factiva mentions |
|----|---|-------------|-------------|----------|------------------|
| 1 | Jim | O'Callaghan | Fianna Fail | 15 | 1984 |
| 2 | Pearse | Doherty | Sinn Fein | 12 | 2360 |
| 3 | Eoin | O Broin | Sinn Fein | 11 | 1534 |
| 4 | Ruth | Coppinger | AAA/PBP | 10 | 1011 |
| 5 | David | Cullinane | Sinn Fein | 10 | 832 |
| 6 | Anne | Rabbitte | Fianna Fail | 10 | 636 |
| 7 | Michael | McGrath | Fianna Fail | 9 | 3454 |
| 8 | Willie | O'Dea | Fianna Fail | 8 | 1133 |
| 9 | Eamon | Ryan | Green Party | 8 | 3775 |
| 10 | Barry | Cowen | Fianna Fail | 7 | 1977 |
| | <i>Average</i> | | | | 1870 |
| | <i>Average for random 10 backbenchers who proposed 0 PMBs</i> | | | | 638 |

Note: the Factiva search is to 31.12.19 of all Irish national and regional newspapers.

There are obviously other factors that can affect media coverage, so these findings from Tables 19 and 20 are more suggestive than definitive. To control for these other factors, a separate dataset was constructed for all TDs elected in 2011 and 2016, which included details of:

- their percentage first preference vote;
- their respective number of mentions in the media after the election;
- the number of PMBs each sponsored in the 31st and 32nd Dáil;
- their parliamentary experience (measured in years in the Oireachtas);
- their party affiliation;
- their ministerial status (ministers cannot sponsor PMBs).

Given the executive-dominant political culture which has traditionally prevailed in the Irish system, we only considered TDs who were not members of government parties in this period. This is because we wanted to rule out cases where a lack of involvement in PMB activity is explained by belonging to a party/group in government.

A statistical analysis in the form of an OLS regression was undertaken to assess what affects the level of mentions in the media (detailed in the appendix – Table 23). It found that PMB activity has a positive effect on media coverage, controlling for both Oireachtas experience and levels of electoral support. The results of this model are in the appendix. The statistically significant and positive direction of the regression coefficients lends support to the hypothesis that PMBs can have an impact on media profile, and backs up the suggestive findings from the previous tables.

6.3 Electoral impact

To expand further on the electoral impact of PMB activity, in this section we use a unique dataset that combines electoral returns, personal characteristics of parliamentarians and data on their activity in parliament.

For electoral impact, TDs' percentage change in first preference vote is the outcome we are looking to explain. We considered their vote change in 2016 and 2020. The key independent variable of interest is the number of PMBs introduced in the Dáil before each election. A number of control variables were introduced, based on what is predicted in the literature to be amongst the key explanatory variables for vote outcome. These are:

- Years' experience in the Dáil at the time of the election;
- Years' experience in the Seanad at the time of the election;
- If the parliamentarian was a minister;
- If the parliamentarian was a junior minister;
- If the parliamentarian was a member of a government party.

The collective effect of all these variables on vote change was determined using a statistical technique called an ordinary least squares regression. The aim of this method is to assess the unique effect of each of the above explanatory variables while holding all the other variables constant.

Table 21. OLS Regression of PMB activity on vote change

| Indep. variables | Coefficient | P-value |
|------------------|-------------|---------|
| Dáil years | -0.02 | 0.85 |
| Seanad years | -0.36 | 0.10 |
| Minister | 2.24 | 0.42 |
| Junior minister | 0.44 | 0.86 |
| Government party | -4.40 | 0.00 |
| PMB activity | 0.51 | 0.05 |

Note: N=320. R²=0.14. Dependent variable=% change in 1st preference vote at next election.

The results of the analysis are demonstrated in Table 21. They show that Oireachtas experience has a negative effect on vote change, although the higher p values mean these results could be due to chance. The two statistically significant variables having an impact on vote change are:

- Membership of a government party. This has a strong negative effect, with members of government parties suffering a four percentage points drop in their first preference vote compared to other parliamentarians.
- The number of PMBs introduced in the parliament before the election. This has a significant positive effect, with every additional PMB introduced resulting in half a percentage point increase in first preference vote. For example, those TDs who introduced at least one PMB in the 31st Dáil saw their FPV fall by just 0.7 percentage points in 2016 and increase by 0.6 in 2020. In contrast, those who did not introduce any bill suffered a vote decline of -4.40 points in 2016 and 1.4 in 2020. Even when ministers are excluded (who cannot introduce any PMBs), pretty much the same results are produced.

Overall, these findings should be of interest to those active in legislative circles. They indicate that a preoccupation with the low conversion rates of PMBs into law can be misguided and fail to see the wider picture concerning the potential of PMBs. These bills, regardless of how far they progress in parliament, can have both a positive media and electoral impact for their sponsors. The 'electoral connection' spoken of in many studies of legislative behaviour is also of relevance to the Irish parliament.

Section 7: Case studies

7.0 Introduction

This section discusses three case studies of PMBs, drawn from the wider quantitative dataset of PMBs used in the previous sections. These case studies take a qualitative approach and allow for a richer and deeper look at PMBs, their formation and how they progress through parliament, with the ultimate aim being to assess how they achieved their particular level of impact. The data used to write these studies comes from interviews with the sponsors of the bills and parliamentary staff, as well as parliamentary debates, media reports and other relevant secondary material.

The selection criteria for the cases built on the analysis of impact in the previous sections. The aim with each case was to pick a PMB that was an example of one of the forms of impact analysed in a quantitative fashion, and go into it in more depth in a qualitative manner. Of the five types of impact, two (media and electoral impact) were not considered since these primarily concerned the collective impact of PMBs, and individual types of these bills were not analysed. This leaves three forms of impact to consider: enactment, influence, and policy change, with the rationale of case selection being to pick examples of bills that achieved these separate forms of impact. While the aim with such selection is usually to include as much variation as possible on the outcome (the level of impact), the primary exception is that cases of PMBs that had no legislative or policy impact are not considered. While previously some scholars might have preferred to include extreme cases (or in this case PMBs that had no impact) so that all outcomes are considered, such an approach is no longer deemed necessary (Seawright and Gerring 2008). There are many PMBs that have no impact, whether because of the quality of the bill or a lack of support for it from within parliament.

The three cases considered here are as follows:

1. Children Amendment Bill 2020. This is an example of a PMB that had a direct impact of being enacted (the first type of impact). It was also chosen because it is the only example of a PMB that has been proposed in the 33rd Dáil/26th Seanad that has been enacted (at the time of writing).²⁶
2. Parole Bill 2016. It was chosen as an example of a bill that had an impact on policy change (the third type of impact), as it motivated the government into changing the law on parole.
3. The Regulation of Lobbying (Amendment) Bill 2020 and the Regulation of Lobbying (Post-Term Employment as Lobbyist) Bill 2020 are considered together because they both influenced government legislation (the second type of impact).

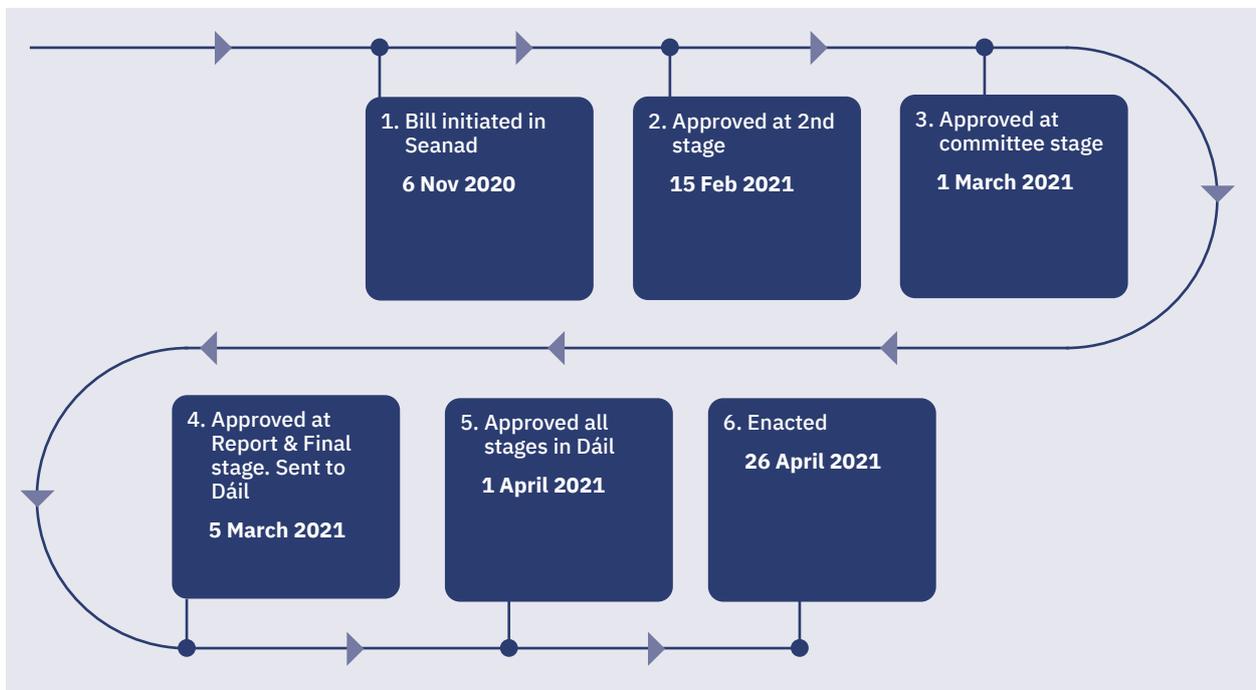
26 Two other PMBs have been enacted in the 33rd Dáil, but both of them were introduced in the previous Dáil: the Criminal Justice (Perjury and Related Offences) Bill 2018 and the Harassment, Harmful Communications and Related Offences Bill 2017.

7.1 Case 1: Children (Amendment) Bill 2020

This bill was proposed by Senator Michael McDowell in November 2020, and sought to amend the *Children Act 2001*, with the specific target clause being Section 252, which restricted public reporting in cases of 'any proceedings for an offence against a child'.

The bill was deemed necessary further to a judgement in a case of *DPP v EC and Media Outlets* in October 2020. The Criminal Court of Appeal ruled that the interpretation of the meaning of child included any child who had died or anyone who was a child at the time of the offence.²⁷ This meant that grieving parents or families who had lost a child due to homicide, for example, could not talk publicly about their child, and nor could the person charged with the offence be named. This also had implications for victims of sexual abuse if they wanted to come forward with details of the abuse they suffered as children. The interpretation of the law meant that these individuals might now not be able to identify either themselves or their abuser.

Figure 5. Progress of Children (Amendment) Bill 2020 through Oireachtas



Source: Adapted from figure provided by Oireachtas Library and Research Service.

Overall, the court ruling meant a change in the intended consequences of the original legislation, and it was suggested in an interview that the general intention of the proposed PMB was to revert to the legal situation as it stood prior to the ruling.²⁸ The more specific aim of the Children (Amendment) Bill 2020 was to allow child victims of homicide to be named.

As detailed in Figure 5, the Children (Amendment) Bill got through the Oireachtas relatively quickly. It was introduced on the floor of the Seanad on 6 November 2020, completing all stages in the upper house by 5 March 2021, when it went to the Dáil. The bill passed all stages in the Dáil in a month and was signed into law by the President on 26 April 2021. The question of interest here is why this bill became law when all other PMBs sponsored in the 33rd Dáil and 26th Seanad have, to date (end 2022), not been enacted.

²⁷ Interview 1.

²⁸ Interview 2.

7.1.1 Impact

A variety of factors that can affect the impact of PMBs were discussed in previous sections, but with this particular case it seems that three key variables were important:

1. The timing of the bill.
2. The nature of the issue being addressed by the bill.
3. The background of the sponsor.

These variables did not all have an equal impact, and neither is it the case that any single variable was necessary or sufficient for the bill to pass; in combination, however, a specific set of dynamics that contributed to the enactment of this PMB was created.

Timing

A key factor was the need for haste.²⁹ The Court of Appeal ruling in October 2020 that certain clauses within the 2001 Children's Act prohibited a child victim from being named meant that grieving parents or families who had lost a child due to homicide could not talk publicly about their child. This case came about because a number of media organisations, including RTÉ, *The Irish Times*, and the *Independent* group, had brought an appeal against a ruling by the High Court that the identity of a child, who was the victim of a homicide, could not be revealed. The grounds of their appeal was that the definition of a child under section 252 of the Children Act should not include a deceased child. A number of parents' and victims' groups had also mobilised to campaign for change.

There was considerable media attention on this case, with the *Irish Daily Mail*, for example, campaigning to repeal the Children's Act. Justice Bermingham, the President of the High Court, while recognising the wishes of grieving parents, said that the only way to change the outcome was for the Oireachtas to legislate: 'If change is required and if it is desired to return to previous practice where it was possible to report cases involving the deaths of children, then it is a matter requiring intervention by the Oireachtas' ([https://www.michaelmcdowell.ie/children-\(amendment\)-bill-2020.html](https://www.michaelmcdowell.ie/children-(amendment)-bill-2020.html)).

This put the onus firmly on the Oireachtas, and in particular on the government, to act and lent a considerable level of urgency to the case. Independently of each other, two members of the Oireachtas, one in the Seanad and one in the Dáil, drew up private members' bills to amend the Children Act to allow for child victims to be named. The independent group in the Seanad supported Senator Michael McDowell's bill, which was proposed less than a week after the ruling of the Court of Appeal, while Deputy Jim O'Callaghan of Fianna Fáil introduced his own Children (Amendment) Bill on 3 February 2021. Two weeks later, McDowell's bill was before the Seanad for second stage debate, which brought the issue front and centre after the winter recess.

While the government could have introduced its own bill at this stage, one interviewee suggested that that it would take at least six to eight weeks longer to draft a government bill rather than to progress the PMB that was to hand.³⁰ Equally, the government could have appealed the court decision to the Supreme Court, but this would have taken even longer. The decision of the government to avoid such a process is indicative of how important speed was to them with this particular case. It also suggests that a PMB can be a way to bump an issue up the legislative agenda, although it is most likely only government that can do this given its general control over the legislative process.

29 Interviews 1, 2 and 3.

30 Interview 2.

The fact that Senator McDowell had introduced the PMB so quickly after the ruling of the Court of Appeal gave his bill a particular advantage. With three options before the Minister – introduce government legislation, support the PMB, or appeal the court ruling – supporting the PMB was, according to the Minister herself, the most expedient path to take.³¹ It was also not necessarily a case of conceding to the opposition, as the government could make desired amendments of its own at the committee stage. A further sense of the urgency of the case came with the desire of the government to avoid detailed scrutiny of the PMB when it went through the Dáil, which would have slowed down the passage of the bill. Minister McEntee requested support for a waiver of the process by the Business Committee, which was duly granted in March 2021.

When speaking during the second stage debates in the Seanad in February 2021, by which stage Deputy O'Callaghan had also introduced his own PMB (the Children (Amendment) Bill 2021), Minister McEntee confirmed the government's strategy and position on this policy area:

I have been working with Senator McDowell and Deputy Jim O'Callaghan on this issue, and we agreed that a collaborative approach is the right one to take. Having committed to finding the fastest way to address this issue, Cabinet agreed last week to support the Private Members' Bill introduced by Senator McDowell as the most expeditious way of delivering on this commitment (Seanad debates, 11 March 2021).

There was very little difference between the two PMBs, the aim of both of which were to amend section 252 of the 2001 Act to allow the naming of deceased child victims and also to allow the courts to do so if in the public interest (Senator McDowell's PMB) or to allow child victims who were now adults to be identified if they wished (Deputy O'Callaghan's PMB). When introducing his bill in the Seanad, Senator McDowell also explained why his PMB received government support:

In parallel with the Independent group's initiative in introducing this Bill to the House, my good friend Deputy Jim O'Callaghan introduced a Private Members' Bill to much the same effect in Dáil Éireann. Both he and I discussed between us, and subsequently with the Minister, whom I welcome to the House today, and her officials, how this matter could best be remedied. The fact that my Bill was chosen was partly the luck of the draw. It does not reflect in any way on Dáil Éireann or Deputy Jim O'Callaghan's Bill; it just has to do with what was considered the most expeditious way of dealing with the legislation (Seanad debates, 15 February 2021).

Sponsors

This brings us to the background of the sponsors of the two enacted PMBs. It was identified in previous sections that having some form of legal training is an advantage in getting PMBs progressed through parliament. The two sponsors are both barristers and senior counsels with extensive legal experience. This undoubtedly was an advantage in (a) drafting a bill quickly, but also (b) effectively, in that the government and the relevant department would have more confidence in supporting these PMBs, working with the assumption that they were drafted correctly. This is an important factor given the general sentiment expressed in interviews that sometimes PMBs can be poorly written and constructed. In this respect, Senator Michael McDowell being a former Minister for Justice and Attorney General, with all the experience that accrues from such roles, was also a distinct advantage.

31 Dáil Debates, 15 February 2021.

Another relevant sponsor trait is the party-political background, or in this case, the lack of one. The government could have progressed either PMB, but Deputy O'Callaghan was a member of one of the government parties, while Senator McDowell was an independent from the less partisan Seanad. The government might not have wished to be seen to support PMBs from its own backbenchers, as historically government backbenchers very rarely have PMBs passed. In contrast, supporting the bill of an independent is a potentially less divisive move as it does not involve a concession to the opposition.³²

Issue

The nature of the topic covered by a PMB is something often mentioned by sponsors of successful bills; cross-party support is more likely to be obtained where a bill is non-political, i.e., it does not concern an issue that divides the parties on policy lines.³³ There was little opposition to the policy proposed by the Children's (Amendment) Bill, and such consensus on a policy topic may make it more likely for a PMB to have an impact.

What is perhaps more significant is that the PMB was not proposing to change policy in the area but was rather seeking to bring the law back in line with what had been the case prior to the relevant court ruling.³⁴ This PMB was not proposing a new policy and nor was it proposing to incur additional expenditure. Other PMBs which suggest major policy changes and involve significant costs are unlikely to receive support from government, especially majority governments.

Government influence

One final factor to consider is the extent to which a government can influence a PMB and therefore claim some sort of a legislative victory as well. With the Children (Amendment) Bill the government introduced a series of amendments at the committee stage in the Seanad, most of which were accepted, demonstrating the government is not ceding all influence in the area. So, just as PMBs being defeated does not mean that this legislation is having no effect, likewise the passing of a PMB does not mean that government is not having any impact in this area. This shows once again that the impact of PMBs is not binary, that is, it is not all or nothing. In this case alone, Senator McDowell (and the independent group of Senators who supported him), Deputy O'Callaghan, and the government could all justifiably claim to have had a legislative impact.

7.2 Case 2: Parole Bill 2016

The Parole Bill was sponsored by Deputy Jim O'Callaghan, a Fianna Fáil TD, and enacted in 2020. Although enactment was the first form of impact considered with the previous case, the passage of this PMB through parliament is a better example of the impact of policy change. The case of the Parole Bill shows how a PMB can motivate government policy change and the legislative output of government, as the government took the bill on board and amended it considerably to suit its own agenda.³⁵ When signing off on the final passage of the bill through the Dáil on 3 July 2019, the Minister for Justice, Charlie Flanagan, said that 'technically, the Bill is still in the name of Deputy O'Callaghan', the implication being that the Minister saw it as a government bill. In total, the amendments proposed by his department meant the final text of the published act was about 60% longer than the bill when it was first introduced. In spite of this, such legislative change may not have occurred if Deputy O'Callaghan had not introduced his PMB in the first place.³⁶

32 Interview 3.

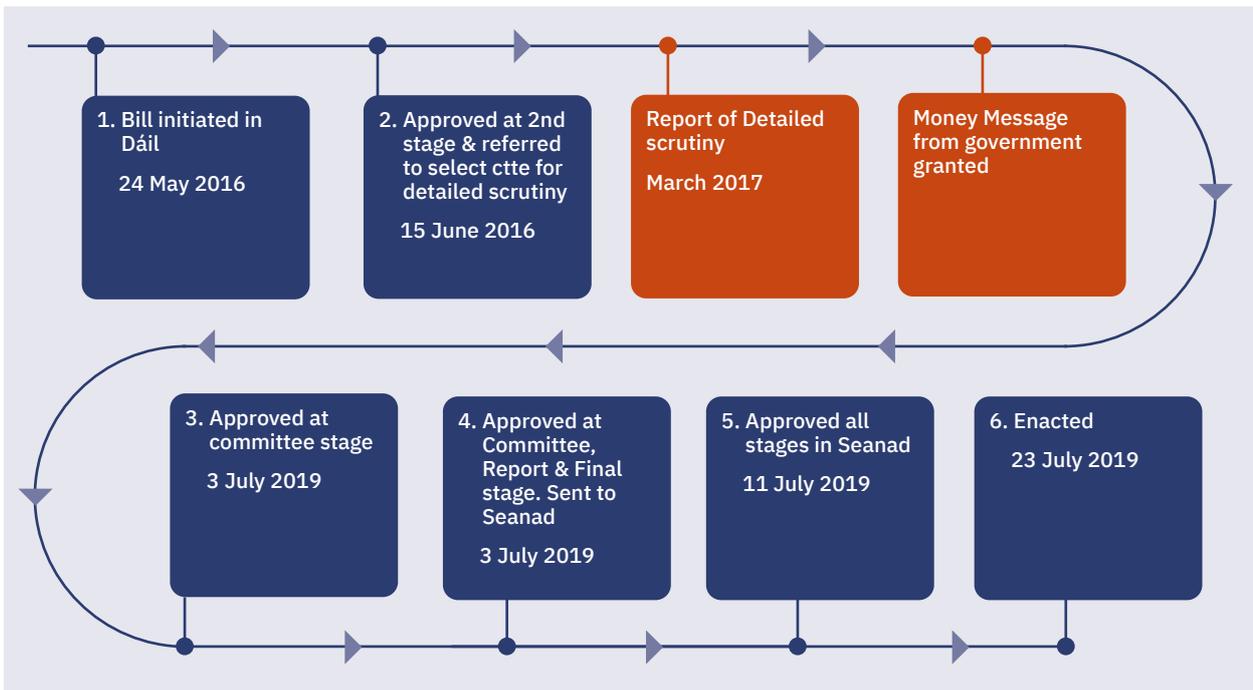
33 Interviews 1 and 4.

34 Interviews 2 and 3.

35 Interview 6.

36 Interview 4.

Figure 6. Progress of Parole Bill 2016 through Oireachtas



Source: Adapted from figure provided by Oireachtas Library and Research Service.

The Parole Bill had four key objectives:

1. The establishment, on a statutory basis, of an independent parole board.
2. To give this board the authority to make the decisions to grant parole.
3. To set out clear criteria for the granting of parole.
4. To give the victims of crime a voice in the parole process.

The issue of placing the establishment of a Parole Board on a statutory basis was something that successive governments had promised to deal with, and which the Irish Penal Reform Trust had long been calling for. It had been recommended by the Law Reform Commission in 2013 and the Penal Policy Review Group in 2014.

The Parole Bill proceeded quickly to second stage, with debates beginning the following month, after which it was referred to the Select Committee on Justice, Defence and Equality for detailed scrutiny on 15 June 2016. The establishment of a parole board had some financial implications, therefore the select committee recommended that a money message from government was required.³⁷ The committee, primarily its members Deputies Clare Daly and Mick Wallace, made a considerable number of recommendations at this stage, which Deputy O’Callaghan and Minister FitzGerald agreed to let through, with the main government amendments being proposed at the report stage.³⁸

37 The debates of the committee are available from: https://data.oireachtas.ie/ie/oireachtas/debateRecord/joint_committee_on_justice_and_equality/2017-02-15/debate/mul@/main.pdf

38 Parole Bill Committee stage debates, 24 May 2017.

During the second stage debates, the bill's sponsor thanked both the Minister for Justice (Frances FitzGerald) and her Department for their support in progressing his PMB:

I acknowledge the role the Tánaiste has played in dealing with this Private Members' Bill, the broad principle of which she has accepted and on which she is happy to work. I am conscious of the fact that I have had engagement with the Department of Justice and Equality, which I welcome (Dáil debates, 24th May 2017).

The Minister confirmed the support she gave to the bill during these debates:

I went to the Government with this earlier this year, to proceed with the establishment of the parole board through the Bill. Since then, a departmental official has been working full-time on it and progress has been made in resolving certain policy issues. We have engaged with Deputy O'Callaghan and been in consultation with him in considering the need for further amendments. We have more work to do in the Department, as Deputy O'Callaghan has acknowledged. We are working through a co-operative process. As Deputy O'Callaghan said, we want to get the very best Bill we can through the process of engagement at the committee and in consultation with Deputy O'Callaghan and the officials working full-time on it (Dáil debates, 24th May 2017).

The report of the select committee on detailed scrutiny of the bill did not delve too deeply into the issue around parole as it had received a letter from the Tánaiste in which she said she would rather meet with Deputy Jim O'Callaghan (who was also a member of the said committee) to tease out how to make amendments. Some of these were put before the Select Committee on Justice and Equality in May 2017, but the passing of the bill was to take another two years.

Speaking in a radio interview in March 2019, Deputy O'Callaghan was unsure as to why the processing of the bill through the Oireachtas was taking so long.³⁹ The government's time that was taken up with Brexit was cited as one factor. By 2019, the Department also had a new Minister, Charlie Flanagan, and he oversaw over 70 amendments to the bill initiated by his department. When bringing these to the Dáil in July 2019, the Minister said:

I want to commend Deputy O'Callaghan for introducing this Bill and for working with me to bring this legislation to fruition. I also want to thank my officials for the huge programme of work that was undertaken to ensure the legislation is robust. This significant legal reform shows what can be achieved through constructive engagement (Dáil debates, 10 July 2019).

By this stage, the original text, but not overall principle, of Deputy O'Callaghan's PMB was changed considerably. However, having waited for three years, the Deputy was prepared to support the government's proposals. David Stanton, Minister of State at the Department of Justice and Equality, recognised this in the Seanad debates on 9 July 2019:

I want to acknowledge Deputy Jim O'Callaghan's role in originally drafting this Private Members' Bill. Although it has been extensively amended by Government after a massive work programme in the Department of Justice and Equality, its core substance remains the same.

Two days later, the Bill passed all stages in the Seanad, despite opposition protests that it was being rushed through the upper house; it was signed into law on 23 July.

39 <https://www.newstalk.com/podcasts/highlights-from-newstalk-breakfast/jim-ocallaghan-parole-bill>

The *Parole Act 2019*, which came into force in 2021, established the new independent Parole Board on a statutory basis with a chairperson and twelve board members. The minimum term a prisoner sentenced to life must spend in jail before being eligible for parole was increased from seven to twelve years. Members of the new board were to have experience of working with both victims and prisoners, with clear criteria set out for how the board would come to a decision. The Board is now also politically independent of the Minister for Justice.

7.2.1 Impact

There are a number of factors that explain why the Parole Bill had an impact on government policy.

Institutional

The first is that it was introduced during a time of minority government. As was shown in previous sections, PMBs are much more likely to be enacted when such administrations are in place. The Fine Gael government had half the number of seats of the opposition, to whom it had to pay heed as a result. More PMBs were enacted in that Dáil than any before or since.

The second factor is that the bill was introduced by a TD from the party that was providing external support to the Fine Gael government to keep it in place. No other party had more PMBs passed in that Dáil than Fianna Fáil (five, including the Parole Bill). This might not seem a significant amount, but to put the number in perspective, it is half the total of PMBs that were passed across five decades in the Dáil from the 1960s to the 2000s inclusive.

Nature of issue and background of the sponsor

The third reason is that the bill had cross-party support; all parties recognised the need to reform the system of parole. The PMB was not proposing a radical change; a later select committee report outlined that the bill was primarily looking to establish on a formal and statutory basis what was already in place, and so it had not been expected to garner too much opposition.⁴⁰

The policy issue that was the focus of the PMB was also in the area of law, and as it was shown in previous sections, law related PMBs were both more likely to be influential and to be enacted.

It was also shown that having a legal expertise appears to be a distinct advantage for parliamentarians initiating PMBs, and this bill being on a matter of law and justice would have given the sponsor an even greater advantage. The bill's sponsor was an experienced barrister, and he was the party spokesperson for this area of law.

Influence of government

As discussed in Case Study 1, the potential for government to influence or amend a PMB can impact on its progress. One of the reasons this bill may have been able to complete the full passage through parliament is because the government supported it in the knowledge that it would be able to change and add to the bill to suit its own interests. While in theory this is the case for most PMBs, it might be imagined that some opposition parliamentarians might not be amenable to having their bill amended by government. The Parole Bill, however, was sponsored by a deputy whose party was providing external support to the government, meaning he was more open to the government taking on his bill for its own purposes. In addition, unlike some other PMBs that are enacted, the Parole Bill required a money message, which in effect gave the government veto power over the passage of the bill.

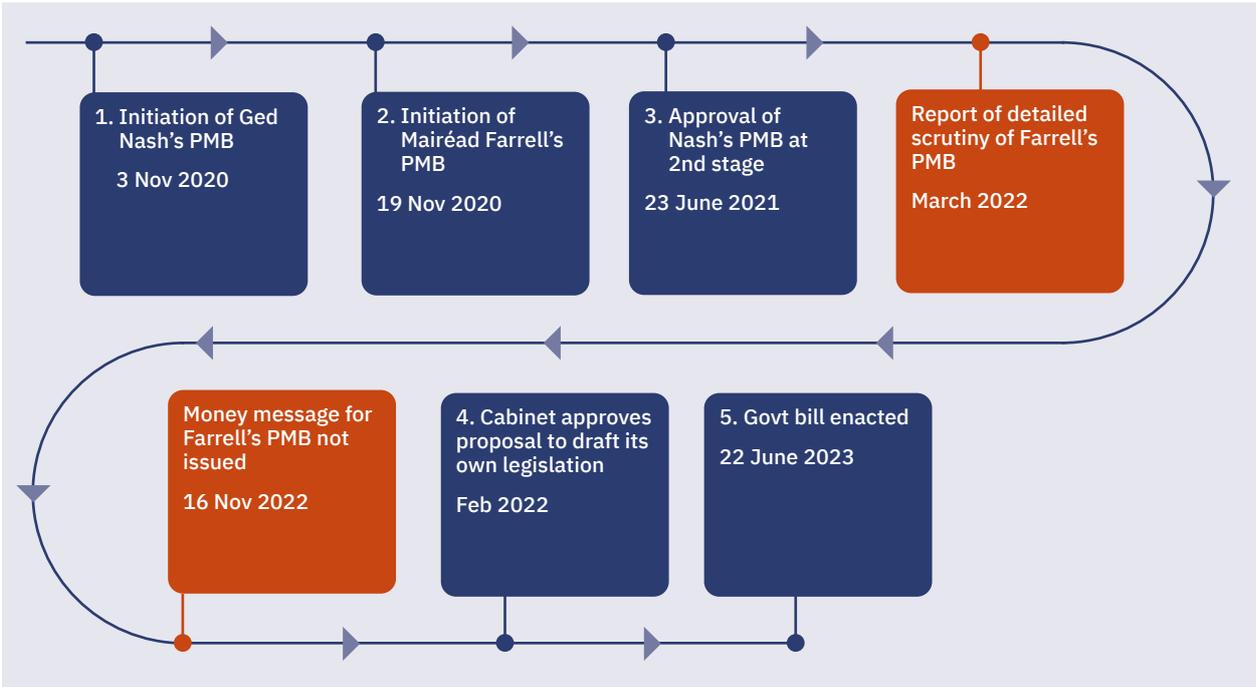
40 Interview 5.

What this means is that not all enacted PMBs have the same level of impact. In some cases they may progress through the Oireachtas with few amendments, while in others, many amendments may be made. The wider implication is that just because a PMB is passed in an area does not mean that the government has not had any impact. While this might seem to lessen or undermine the apparent influence of PMBs, it also means that PMBs that might seem unlikely to progress could perhaps be used by their sponsors as a starting block for wider legislation that governments could capitalise on. In this way, the legislative process could expand beyond government control to all corners of both houses of parliament.

7.3 Case 3: Regulation of Lobbying (Amendment) Bill 2020 and Regulation of Lobbying (Post-Term Employment as Lobbyist) Bill 2020

These two bills are selected as they are examples of PMBs that influenced government legislation (the second form of impact identified in section 3), specifically, the *Regulation of Lobbying Act 2022*. The reason they are included here is to detail and analyse the impact such influencer PMBs can have. Their impact comes in the form of both spurring the government into action, but also the government being conscious of the PMBs when designing its own legislation.

Figure 7. Key events in progress of legislation on lobbying through Oireachtas



Source: Adapted from figure provided by Oireachtas Library and Research Service.

7.3.1 Context

The *Regulation of Lobbying Act 2015* required anyone involved in lobbying public officials to register and report on their lobbying activities on a Register of Lobbying. However, a loophole was identified in the legislation concerning a cooling-off period for public officials, which stipulated that such officials could not engage in lobbying activities or work for a lobbying group for a year after leaving public service. The relevant Section 22 did not apply to TDs, Senators, MEPs or local councillors, however, and those to whom it did were also entitled to apply to have the cooling-off period waived. In addition, non-compliance was not deemed an offence, unlike other contraventions of the legislation.

This loophole gained public attention in 2020 when Michael D'Arcy, a then senator and former Minister of State in the Department of Finance, resigned from the Seanad to become chief executive of the Irish Association of Investment Managers (IAIM), a self-described 'representative body for the investment management industry' (iaim.ie). While the guidelines of the Standards in Public Office Commission did not permit ministers or junior ministers from lobbying for twelve months after leaving their role, the aforementioned Section 22 allowed them to apply for an exemption. D'Arcy, however, had not sought such an exemption, highlighting the gap in the lobbying legislation around enforcement and sanctions.

When the story broke, the Taoiseach, Micheál Martin TD, told the Dáil that he was 'not happy, or in any way comfortable' with parliamentarians leaving politics to join groups that engage in lobbying activities. He said, 'I believe the legislation should be reviewed, the Government has agreed this morning that the Minister of Public Expenditure would initiate a review of simple legislation but also more widely.' He also said that 'any cooling off period should be one that has the force of law and that has sanction and penalties attached to it, and that review is underway by government now' (*Irish Examiner*, 29 September 2020). Despite these pledges, it was to take the government two years to introduce a relevant bill; with the opposition pressing for reform, it was not long before two separate PMBs were proposed. While their sponsors may well have hoped to get their respective bills passed, at the very least they were hoping to influence the government as they waited for it to introduce its own legislation. It is this influence that is of interest here.

The first of the relevant PMBs was the Regulation of Lobbying (Post-Term Employment as Lobbyist) Bill 2020, introduced by Deputy Ged Nash of Labour on 3 November. It was a fairly short bill, the aim of which was 'to regularise the situation, so as to enable section 22 [of the *Regulation of Lobbying Act 2015*] to be properly enforced' (explanatory memo). In particular, the Deputy was concerned with the lack of enforcement powers over section 22 concerning the cooling-off period and the lack of sanctions. When introducing the PMB at first stage, Deputy Nash stated an aspiration that the government would act quickly with regards its review of SIPO legislation, implying that he was not necessarily assuming that his bill would pass, but that it might at least motivate the government to act. The government did not oppose the PMB; rather, it proposed a 'deferred reading' amendment at Second Stage which delayed the process, meaning that it would not pass second stage until 17 June 2021 (six months later).

The second influencer PMB, the Regulation of Lobbying (Amendment) Bill 2020, was published by Deputy Mairéad Farrell (co-sponsored by Deputy Pearse Doherty) of Sinn Féin on 19 November 2020. It was a lengthier piece of legislation than Deputy Ged Nash's bill, and sought to address five key issues with regard to the regulation of lobbying:

1. To include all lobbying by business representative bodies and any interest groups.
2. Cooling-off provisions to be widened in scope, lengthened to two years, and waiver applications to be made public.
3. Strengthen enforcement of 'Cooling-Off' provision by giving SIPO more powers.
4. Enhance compliance with Code of Conduct for Lobbyists.
5. Place obligations on Designated Public Officials (those affected by the legislation).

As Deputy Farrell said when introducing the PMB at the second stage in the Dáil, the intention was to address issues raised by SIPO in its annual reports and submissions over the reviews of the relevant lobbying legislation. In total, the bill aimed to implement thirteen of the twenty-two recommendations made by SIPO in 2019.

The opposition was critical of government for being reactive rather than proactive with its legislation. Different political parties and organisations had, for a number of years, been calling for the type of amendments that might have prevented the Michael D'Arcy case from arising in the first place, or at least would have had enforceable and meaningful sanctions in place. The previous government, however, in its second review of the *Regulation of Lobbying Act* in January 2020, had concluded that it was premature to address the issues raised by SIPO and other stakeholders with legislative change and the subsequent coalition government had not proposed any amendment to the lobbying legislation in its Programme for Government.

As such, the government appeared to share its predecessor's sentiment until the Michael D'Arcy episode arose. When the Sinn Féin-sponsored Regulation of Lobbying (Amendment) Bill 2020 was introduced a few weeks after the episode, the government introduced an amendment at second stage to delay progress of the bill by nine months until September 2021. Signifying this policy change, Minister Michael McGrath, who moved the amendment, said that he would work with Deputy Farrell 'to address the issues she has raised in respect of the bill', while also 'I acknowledge that Deputy Nash (the sponsor of the other PMB influencer on lobbying) has also brought forward legislation in respect of the lobbying Act' (*Dáil debates*, 24th November 2020). The minister argued that additional time was necessary to conduct further reviews of the 2015 legislation, as well as other reforms about ethics in public office legislation.

The Sinn Féin PMB received cross-party support from the opposition and a range of independents, including Deputy Catherine Connolly, who said:

The Department, with the Minister for Public Expenditure and Reform, ignores it all. It took a Sinn Féin motion tonight to bring forward some of the recommendations... It has to be asked why we have to rely on an Opposition party, with the fewer resources available to us, to bring a Bill like this before the House when SIPO has clearly pointed out the absolute necessity for the Bill and the different recommendations... One would think that if a proactive Department and a proactive Minister were serious, they would deal with that... (Dáil debates, 24th November 2020)

The Sinn Féin PMB was not enacted, but its impact as an influencer, along with the PMB initiated by Deputy Nash, motivated the government into action. On 1 September 2021, the sponsors of the Sinn Féin PMB requested of the Joint Committee on Finance, Public Expenditure and Reform that their bill, which by now had completed second stage, undergo detailed scrutiny as per standing order 178. The Joint Committee agreed to undertake scrutiny, which began in October 2021.

Following a request from the Committee, the Minister for Finance, Public Expenditure and Reform made a written submission to the PMB scrutiny process. In the Minister's submission, it was stated that his Department underwent an extensive review of the 2015 Act, following which several proposals were made that had been approved by Cabinet in July 2021. The government's intention was to introduce legislation of its own, which would address key aspects of the Sinn Féin-sponsored PMB. Ultimately, the Joint Committee recommended that the bill, in accordance with Standing Order 178(4) proceed to Committee stage of the legislative process. The PMB is still awaiting third stage.

Subsequently, the coalition government initiated its own lobbying bill, and the general scheme of the bill was given to the Joint Committee in spring 2022 for pre-legislative scrutiny. The government bill underwent this scrutiny by the Joint Committee on Finance, Public Expenditure and Reform with its report published in July 2022. It stated that the government legislation 'follows on from a Private Members' Bill introduced by Deputies Mairéad Farrell and Pearse Doherty in 2020'. The government bill – the Regulation of Lobbying and Oireachtas (Allowances to Members) (Amendment) Bill – was published on 22 September 2022. It had three key aims⁴¹:

1. To improve the working of the Lobbying Register;
2. To improve enforcement of the existing legislation;
3. To make failure to abide by the cooling-off provision a direct contravention of the legislation.

Deputy Nash, who sponsored one of the PMBs on lobbying said that 'The government proposals are, with the exception of some minor tweaks, virtually indistinguishable from the Labour Party Bill,⁴² and he welcomed (what he claimed was) the government's effective publication of his PMB. The Committee's PLS report had recommended the government bill, with a number of amendments to it, including some by Deputy Mairéad Farrell that were rejected, and it was enacted on 22 June 2023.

7.3.2 Impact

Timing

Reform of the lobbying legislation had been mooted for a number of years but the government was quite clear in 2020 that this was not part of its policy programme. However, within two years, during which there were two PMBs proposing to do so that were approved by the Dáil at second stage, the government had proposed amending legislation and had it enacted. What seems to explain this? First, the government was embroiled in some controversy due to the media furore over the actions of Michael D'Arcy. As a consequence, it most likely was conscious not to be seen to reject the opposition PMBs as vehemently as it might have done with other PMBs. The sponsors of the two PMBs were able to exploit a political situation to give their respective PMBs maximum exposure and to ensure that they had some chance of having an influence.

The second factor related to timing is that just as with the first case study, the PMB sponsors were quick to initiate their own bills. Since the government had previously announced that no new legislation was necessary, the sponsors of the PMBs were aware that the government would most likely be a bit slow to react to the D'Arcy episode, and so were able to exploit government inaction on this issue to their advantage. Because the Standards in Public Office Commission had already made a number of recommendations regarding reform of the legislation, in the case of Sinn Féin the PMB sponsors were able to incorporate these into their bill.

41 See the Bill Digest about the bill produced by the Oireachtas Library & Research Service: https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2022/2022-11-21_bill-digest-regulation-of-lobbying-amendment-bill-2022_en.pdf

42 <https://labour.ie/news/2022/02/15/nash-welcomes-government-adoption-of-labours-lobbying-bill/>

Nature of the issue

Related to the above, and perhaps overlapping with it, is the type of issue the two PMBs were dealing with. Because of the controversy arising from the Michael D'Arcy episode, the government most likely did not want a government vs. opposition split over the issue, as it might be perceived that they were defending poorer ethics. The government most likely wanted a certain degree of consensus within parliament, which is why it did not defeat the two lobbying PMBs in parliament. Had it done so, this would have been a PR battle that the government would find difficult to win, and so it had to cede some influence to the opposition's PMBs.

Institutional

The question arises as to why one of the two PMBs did not become legislation, especially as it had general support in the Oireachtas. The majority nature of the government was undoubtedly a factor. Even though the government was slow to respond with legislation of its own, the two PMBs could not progress without government support. Perhaps under different institutional conditions, e.g., a minority government, the PMBs may have made greater progress in the legislative process.

7.4 Conclusion

There are a number of common themes running through the case studies that help explain what affects the impact of PMBs. The nature of the issue covered by the PMB was brought up by a lot of interviewees, especially if it is one that is deemed to be somewhat non-partisan. A second theme is the background of the sponsors. It is no coincidence that the two cases which became law were both drafted by parliamentarians who are experienced lawyers. They were able to overcome the major hurdle of drafting inexperience that many other parliamentarians face. Many of the interviewees for the case studies were of the opinion that a lot of PMBs are not always well-drafted,⁴³ and even though the services of the OPLA are now there to help members with the writing of PMBs, good drafting takes time which can result in PMBs losing out on the opportunity to influence. A third theme that points to the advantages of PMBs and where they have potential to have greater impact is that a number of interviewees said that these bills can be quicker to run through the different parliamentary stages. There simply being fewer individuals involved with the bill is one factor. In contrast to government bills, there is no cabinet, departmental or cross-party negotiation involved, all of which have the potential to slow down the process. PMBs can be drafted more quickly, and governments can wait until the legislative stages are underway before making amendments, thus speeding up the passage of the bill. That being said, the fewer hurdles and fewer cross-checks can increase the likelihood of the bill failing. This is why the reputation of the sponsors can be particularly important.

43 Interviews 2, 5 and 6.

Appendix

1. Coding of legislation for sections 2, 4 and 6

Major topics of legislation for Irish Policy Agendas Project (<http://ppasi.org>). More details on the sub-topics and their content are on the project website.

| | |
|----|---|
| 1 | Macroeconomics |
| 2 | Civil Rights, Minority Issues and Civil Liberties |
| 3 | Health |
| 4 | Agriculture |
| 5 | Labour and Employment |
| 6 | Education |
| 7 | Environment |
| 8 | Energy |
| 9 | Immigration and Refugee Issues |
| 10 | Transportation |
| 12 | Law, Crime, and Family Law |
| 13 | Social Welfare |
| 14 | Community Development, Planning and Housing |
| 15 | Banking, Finance and Domestic Commerce |
| 16 | Defence and Neutrality |
| 17 | Space, Science, Technology and Communications |
| 18 | Foreign Trade |
| 19 | International Affairs and Foreign Aid |
| 20 | Government Operations |
| 21 | Public Lands, Natural Resources and Heritage |
| 23 | Cultural Policy |

2. Effects on approval rates of PMB at 2nd stage (section 2)

Table 22. Logistic regression of effect of different factors on PMB approval at 2nd stage

| Indep. variables | Coefficient | P-value |
|-----------------------|-------------|---------|
| Legal background | 0.60 | 0.01 |
| Oireachtas experience | -0.01 | 0.40 |
| Majority government | 0.50 | 0.00 |
| Planning issue (1/0) | -0.30 | 0.21 |
| Law/crime issue (1/0) | 0.08 | 0.72 |

Note: N=737. Pseudo-R²=0.05. Dependent variable: if PMB approved at 2nd stage (1/0).

3. Effects on media coverage (section 6)

Table 23. OLS regression of effect of different factors on media mentions

| Indep. variables | Coefficient | P-value |
|-----------------------|-------------|---------|
| % Vote | 43.38 | 0.01 |
| PMB activity | 72.40 | 0.02 |
| Oireachtas experience | 29.20 | 0.01 |

Note: N=247. R²=0.10. Dependent variable: No. of mentions of PMB sponsor in the media.

Box 4. Differences between legislative process for PMBs and government bills (Dáil)

The legislative process for PMBs differs in three ways from that of government bills.

The sponsor of a PMB must attain the House’s permission to initiate a PMB, and this takes the form of a short debate at first stage.⁴⁴

Because Articles 17 and 28 of the Constitution give the financial prerogative to the government, Dáil Standing Orders state that a PMB may not propose expenditure or a tax unless either are incidental to the overall purpose of the PMB. Even when the expenditure or tax is incidental, the PMB needs a money message (expenditure), or a financial resolution (tax), from government (indicating its support for the charge on the state) before the PMB can proceed to committee stage in the Dáil.

‘Detailed scrutiny’ in between second stage (debate and decision on general principles of the bill) and committee stage (line-by-line scrutiny and consideration of proposed amendments) was introduced for PMBs in 2016 in response to the increasing numbers of PMBs passing second stage and with a view to ensuring that PMBs are subjected to a similar level of scrutiny as government bills. Since 2019, requests for money messages/financial resolutions are issued after detailed scrutiny has been concluded (prior to this they were issued after approval at second stage).

44 Government bills do not need the permission of the House and are automatically placed on the order paper for second stage. If a PMB is sponsored by a group, it also has automatic approval; but as each group can only have one such PMB on the order paper at any one time most PMBs are initiated through a debate at first stage.

About the author

Liam Weeks is a Senior Lecturer and Head of the Department of Government and Politics at University College Cork. He is also an Honorary Senior Research Fellow at the Department of Politics and International Relations at Macquarie University, Sydney. He is a graduate of Trinity College Dublin, having been conferred with a BA in History & Political Science (2001), a Postgraduate Diploma in Statistics (2004) and a PhD in Political Science (2008). He also has a Postgraduate Certificate in Teaching and Learning in Higher Education from University College Cork (2009). He has held visiting appointments at Macquarie University (Sydney), the University of Sydney, Waseda University (Tokyo), and Swinburne University of Technology (Melbourne). He held an Irish Research Council Marie Curie Fellowship at Macquarie University and University College Cork from 2010 to 2013. He is a member of the executive committee of the Political Studies Association of Ireland, and has been editor of the journal *Irish Political Studies* since 2021.

His research focuses on electoral systems, political parties and parliament, and many aspects of Irish politics. He has co-authored and co-edited five books on Irish politics, including, *All Politics is Local. A Guide to Local Elections in Ireland* (2009), *Radical or Redundant? Minor Parties in Irish political life* (2012), *Independents in Irish party democracy* (2017), *The Treaty. Debating and Establishing the Irish state* (2019), and *Birth of a State. The Anglo-Irish Treaty* (2021). His research has been published in peer-reviewed journals such as the *Australian Journal of Political Science*, *Government and Opposition*, *Party Politics*, *Parliamentary Affairs*, *Representation*, *Comparative European Politics* and *Irish Political Studies*.

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