

The Policy Trajectory of Ireland's Official Languages Act (2003) – An Insight into the Policy Process

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Introduction and Context

This report presents the background, methods and preliminary findings of a study funded by the IRCHSS (Irish Research Council for Humanities and Social Sciences) which explored the policy trajectory of the Official Languages Act (2003) [OLA] from its negotiation and enactment at central government level to its implementation in front line service bodies such as health, education and local government.

Aims of the Project

Conventionally policy-making has been understood as a linear, rational process. Taking the OLA as a case example, in this research project we are looking to better understand:

- ~ What are the influences that bring an issue onto the agenda for legislation to be made at a particular point in time
- ~ Who influences the policy texts (the wording of law and content of statutory instruments / guidelines) and how do they exert influence?
- ~ What actions do those working in front-line services take and in what

arenas to shape implementation of policy in their locality?

- ~ In what ways do individuals' own approach and experiences with language inform their activities?

What the study was not

The study did not set out to systematically evaluate the impact or effectiveness of the OLA. This report therefore cannot make comprehensive evaluations on this although the data does enable us to make just some relevant observations.

Data Collected

The data sources consist of a wide selection of published texts, 26 semi-structured interviews at the levels of central government, language voluntary sector and frontline service bodies. In terms of the latter one organisation in each of education, health and local government were selected, in regions with Gaeltacht remits, one of which has offices within the Gaeltacht as well. Publicly available texts include, amongst others, annual reports and press releases by the Language Commissioner's office and the Department of Community, Rural and Gaeltacht Affairs, annual reports and language schemes produced by public bodies and

the minutes of discussions in the Dáil, Seanad and relevant committees. Documents collected from public bodies consist mainly of internal correspondence and submissions to language schemes. The interview participants in the public bodies include both frontline practitioners and individuals in managerial positions. We also interviewed three individuals who work as Language Officers within public bodies.

Research Team

The study was undertaken by an interdisciplinary research team in the School of Business, Humanities and Social Sciences at the Institute of Technology Tralee, comprising Dr Clare Rigg, Dr Muiris Ó Laoire and Dr Vasiliki Georgiou.

Acknowledgements

We are grateful to a wide range of people who have spared their valuable time to be consulted as part of this study. The study is funded by the Irish Research Council for Humanities and Social Sciences (IRCHSS), without whom it would not have been completed. Naturally, any errors in this report are those of the authors alone.

The Official Languages Act (2003)

The Official Languages Act (OLA), signed in 2003 and fully enacted three years later,

is the first piece of legislation since the establishment of the Irish state in 1922, to provide a statutory framework that regulates the provision of services by public bodies in the official languages of the state; Irish (Gaelic) and English¹. The primary aim of the Act is to improve, in a phased way, the availability and quality of public services through Irish, chiefly by placing obligations and duties on public bodies. Such duties result from the core provisions of the Act, from subsequently formulated statutory instruments and guidelines and from individual language schemes, produced by each public body under the guidance and subsequent agreement of the Ministry of Community, Rural and Gaeltacht Affairs. A scheme, a feature adapted from the Welsh Language Act, is effectively a renewable plan which identifies the services the organisation provides in Irish, English and bilingually and outlines how it intends to phase increases in the quantity and quality of services provided in Irish over a three year period (see also Walsh & McLeod 2008). For example, the Act does not make provisions with regard to Irish content on websites; this is something that would come under a scheme. The main policy instrument for advancing implementation is the creation of the Office of An Coimisinéir Teanga (Language

¹ Available at <http://www.pobail.ie/en/IrishLanguage/OfficialLanguagesAct2003/OfficialLanguagesAct2003/file,6515,en.pdf> (accessed on 07/01/2010).

Commissioner), which is an independent statutory office akin to an ombudsman's service. The role of the Commissioner, based on the federal Official Languages Act (1985) in Canada², is to monitor (and facilitate) compliance by public bodies and to provide advice or other assistance to the public with regard to their rights under the Act.

Rationale for studying the OLA

Two reasons guided the choice of the Official Languages Act (2003) as a case study:

1. it is a piece of legislation which entails an unusual element of discretion in that the Act itself includes only a small number of key provisions, while the bulk of the duties placed on public organisations come from statutory instruments and language schemes. Schemes confer a degree of flexibility on the policy process, inviting organisations to become involved in language planning and share responsibility for the outcome.

From a policy perspective, the negotiation that takes place both within and between organisations

and the relevant government Department in the production of such schemes merits close investigation.

2. the OLA is an example of divergent change, breaking with established practices in two ways:
 - ~ the *legal* obligation to engage with the public through Irish and to plan bilingual provision granted citizens language rights for the first time which was a departure from previous policy based on non-statutory guidelines which were largely ignored;
 - ~ the clear statutory framework broke with the earlier practice of including vague or aspirational clauses in legislation which could also easily be disregarded. Citizens were granted specific language rights for the first time.

While such observations can be valid for any type of policy, the fact that we examine a *language* policy adds another interesting dimension. This relates to the relevance of the historical trajectory of the Irish language and language planning in Ireland and the often emotionally charged nature of language issues, especially when people see language as linked to some fundamental aspect of their identity (e.g. ethnicity, nationality, gender). Irish has been central in the nation-building process in Ireland and has had an

² Available at:
<http://lois.justice.gc.ca/PDF/Statute/O/O-3.01.pdf>
(accessed 13 March 2010).

important position in government policies since the establishment of the state, attracting considerable effort and public funds. It has also been at the centre of activism and grassroots movements.

Perspectives on Policy Making

Conventional

Throughout previous decades the policy process, both in language planning, but also in general, has largely been understood as a linear process of:

- ~ Problem identification
- ~ Solution selection
- ~ Policy formulation (laws made, guidelines issued)
- ~ Implementation

From this perspective, human agency (decisions, choices, influencing by individuals) is only present at the centre, within government. Implementation is perceived as an administrative process. Contemporary ideas of values, identity, emotion or agency are not recognised. People are considered only as either those who have policy done to them or as shadowy resisters.

Contemporary

Recent thinking views the policy process as a dynamic trajectory, with contexts of:

- ~ getting onto the political agenda
- ~ negotiating texts (the legal wording)

- ~ implementation
- ~ enforcement and evaluation.

But it is an iterative path filled with a complexity of human interactions and negotiations, and each context is a potential site for competing ideologies, discourses and power. Figure 1 illustrates this complexity for the OLA.

Implementation cannot be assumed to follow automatically and successfully. It concerns the interpretation of policy by individuals, within their particular local institutional context and locality. The challenge is to explain not only how institutions influence these actors' behaviour, but also how they influence, and possibly change, institutions.

The study, then, examined how public workers try to implement the Act, within constraints imposed by institutional structures and drawing on their professional knowledge and experience, but also on their own experiences with language and their knowledge of existing discourses circulating in the public sphere. The basic tenet of this report is that policies are not merely implemented, but are actually *shaped* on the ground.

Some working definitions

Key contemporary ideas that shed light on individual agency within policy implementation are:

'social actor' – individuals or groups who take action and exert influence

'institutional entrepreneurship' - activities by an individual (or a group), who are able to bring about significant (divergent) changes through drawing on networks and articulating persuasive arguments to mobilize support. They have high social status, but are not at the centre of formal organisation authority.

'subaltern' – power at the margins

social actors who have no great formal power, but nevertheless become crucial to shaping the way policy is eventually implemented. The subaltern agent is not acting consciously as a resistor to policy compliance but acts in accord with the expectations and norms in the local institution and locality with which s/he interacts.

'Institutional context'

Institutional practices and structures may constrain, or enable, individual behaviour whilst they do not wholly determine the choices of actors, who have the ability for manoeuvre within these constraints.

Key Findings

Explaining the Policy Trajectory

Getting onto the agenda - why then?

That the OLA was accepted onto the political agenda for legislation in the late 1990's/early 2000's, after decades of activism and lobbying, was the combined result of:

- ~ language activism in the 1970s and 1980s
- ~ more strategic lobbying by the language voluntary sector in the 1990s
- ~ international rights movements which influenced language activists,
- ~ a favourable legal judgment (Hardiman judgment 2001) which made it imperative to put legislation in place
- ~ a committed government minister

Negotiating the text – Institutional Entrepreneurship of Non-State Actors

We suggest that a key influence on the timing and content of the OLA was the role played by the language organisations and independent individuals

Their institutional entrepreneurship is displayed in mobilising contacts from international networks and bridging political stakeholders across organizational, national and international boundaries, to stimulate international policy learning and transfer.

Particular examples include:

- ~ addressing individual TDs with tailored arguments for an act
- ~ 1998 Dublin conference at which international practice was showcased, including a speech by Canadian Minister
- ~ 2002 visit to Ireland by Canadian Language Commissioner
- ~ Strategic use of media, written pamphlets and meetings to cultivate political, popular and institutional support for legislation

Interpreting policy in front-line bodies

Whilst responsibility for implementation of the law rests with senior managers, in practice we found the lead role for interpreting policy and drawing up a scheme was variously taken by:

- ~ a senior manager
- ~ the organisation's language officer
- ~ another individual with interest in Irish

Within the spaces available for negotiation and interpretation in frontline bodies, we suggest the resultant shape of implementation can be attributed to the interplay of individual and their institutional setting.

Individual Agency

We discuss these under the headings institutional entrepreneurship, subaltern agency, set ways and bureaucratic.

Bureaucratic Response

For some of our interviewees the OLA was simply another piece of legislation to be complied with: 'it's the law so we have to'. And in the view of one of our central government interviewees, 'if they say that then it's working'.

However, more detailed understanding of how people implement policy, requires that we consider the other things they are expected or required to take seriously and which compete for attention, effort and resources

Set ways

Set ways refers to the habitual nature of much of public work practice, which in the face of new regulations and guidelines and constitute one of the basic institutional pressures toward stasis.

In our interview data many practitioners consistently construct the OLA as another layer of policy they have to deal with, which can often be the source of frustration or be pushed down on the list of priorities. This means that unless the new regulation is of particular relevance or interest or there incentives or penalties attached to doing so, it is unlikely they will show proactivity.

Lack of communication among staff with regard to the obligations for the public body resulting from the Act and its

scheme, was in fact stated by the Language Commissioner as the most significant weakness in the implementation of schemes for two consecutive years (2007 report³).

Where proactivity is shown, it can take different forms, as we now discuss.

Institutional Entrepreneurship

In one organisation the Language Officer featured very prominently in all of interviews with staff members. She was represented as an active, supporting and leading figure, who carried out her work by building strong relationships with front-line staff, both initiating contact and responding to their requests. She upholds this relationship through regular visits to the body, meetings and correspondence, geared toward monitoring and further developing service through Irish.

The Language Officer saw her role as being both internally and externally oriented. Professional and language identities inform one another and individual action. A native speaker herself, she not only is passionate about the Irish language and its future, was motivated by her desire to provide advice and support for staff members and on the other hand, help provide more and better quality

³ The Commissioner's reports are available on the official website: <http://www.coimisinair.ie>

services to Irish speakers. As a result, she also strives to leverage financial resources from various funds that can be used to set up new vanguard services.

Subaltern Agency

In one body, one of the main actors in the institution had a deep-seated commitment to and good ability in the Irish language. Already in a managerial position in the local site, she was perceived as the only one who could drive the new policy in the organisation:

I was the only one who could do it and I was the only one who showed any interest in it as well ...'

She developed an ambitious draft scheme for consultation. However, local response and reaction from colleagues forced her to rethink the scheme in terms of what was realistically achievable.

Here policy at the local level is negotiated as the agent, whilst bringing a personal enthusiasm for the Irish language, becomes aware of the demands that the OLA was putting on the organisation, coupled with the matter of keeping the "other" institution members satisfied.

Institutional features as constraining or enabling factors

Institutional factors of course affect individual action. Here we focus on what

we consider the most important, discussed under the headings 'locality', 'service users', 'conception of service' and 'capacity'.

Locality and how services are

consumed are crucial elements in the real and perceived relevance of the OLA as well as individuals' degree of language sensitivity and willingness to accommodate service users.

Framing arguments for or against the OLA in terms of cost and demand constructs service users as consumers, whose demand justifies the (lack of) offer. However, if the provision of service in Irish is seen as a matter of rights, then arguments around cost and demand, are misplaced.

In the service operating within the Gaeltacht, where Irish is part of community life, and staff provide services within people's homes which, when Irish is the language of the home, makes its need more obvious, we found staff described service users as citizens, entitled to services in their preferred language. Here the OLA is seen as enabling staff to sustain and extend their provision of resources in Irish or English.

In contrast, in service organisations where there is:

- ~ low level of Irish proficiency amongst staff

- ~ little or no daily contact with native Irish speakers
- ~ low everyday use of Irish
- ~ services are provided with little direct contact with service users (e.g. road maintenance, water, sewage, education administration)

those we interviewed were more likely to perceive the OLA as an unnecessary imposition to their work schedules, as an unjustified additional cost lacking demand. To some extent professional identities, language affiliations and experiences with Irish show influence on the behaviour of public workers, who can use these as a to justify support or resistance to the OLA. However, there was no simple connection of such views with an individual's own proficiency with or expressed liking Irish, for example, see quote below:

Senior Local Government Manager

"I did a lot of my subjects through Irish in school d' you know what I mean? ... and I spent a great summer in the Gaeltacht and- you know what I mean? and I could still probably listen to TG4 on TV and understand most of it so I've no- you know I think it's a good thing- my kids as well. I'll make sure that they spend a lot of time on Irish know the importance of it all you know that kind of stuff but there's no escaping the fact that it costs a lot of money to put Irish on- to implement this stuff like? There's no escaping it like. I don't think we should be running away from it either but ... double quantities of signage and that ... it's an expensive game. You know I suppose nowadays we've got so much legislation on the whole lot that we're trying to tick off an awful lot of boxes"

Services Users

A perception of lack of demand for services in Irish is more complex than it might appear. The Language Commissioner reports (2007, p22⁴) state that the public frequently remain unaware of the services in Irish to which they are entitled to from a public body. In the absence of knowledge of entitlement, services users' expectations of being well-received if they initiate service requests in Irish is historically low. And as users of public services, the pragmatic view voiced by some of our respondents is captured by the following quote from a native Irish speaker:

"If I go to get my car taxed and the longest queue is for the one person that has a sign showing they can speak to me in Irish, I'm not going to hang around for twice the time just to get my request dealt with in Irish."

The absence of active offer of services does not help redress the perception of low demand.

Conception of service

We question how well the OLA understands public services users and the ways they consume services. For frontline service bodies, the main service over

⁴ The Commissioner's reports are available on the official website: <http://www.coimisinair.ie>

which they are obliged to provide simultaneously in both Irish and English is major documents such as annual reports and accounts. Yet, as more than one of those we spoke to said:

“Who ever reads these documents anyway, whether in English or Irish?”

Capacity

Organisation capacity is a key influence on policy implementation, in terms of technical, financial and human resources:

Technical capacity issues (capacity of computer systems for example to issue automated correspondence, print tickets, or deal with the fada in names and addresses) have been rejected by the Commissioner as sufficient grounds for non compliance with the provisions of the Act and/or schemes, and most of these have now been dealt with, with the exception of the use of Irish and the fada.

Financial. The OLA was put forward by Minister Ó Cuiv as a cost neutral legislation. In other words, it did not come with extra funding and public bodies were expected to reallocate and use existing resources to implement it. Implementation of the OLA does incur real costs for public bodies, resulting from translation, training, signage, printing etc, even if these have been greatly exaggerated in the media. Concerns regarding the cost of the OLA to

public bodies and its value for money feature prominently across the interview data, with the exception of the interviews with health practitioners.

Staff. The biggest challenge to implementation of the OLA relates to human resources - the availability of fluent Irish speakers able to provide service through Irish. The number is low within most organisations and Irish language training has been a feature of most schemes. However, the reality of what constitutes a service and how many services are consumed:

- ~ 24 hour and emergency, not just 9-5
- ~ from outlying centres and in the home, not necessarily from central sites,
- ~ face-to-face through personal communication, not only through pre-prepared forms and documents

requires more than a basic grasp of the language if a meaningful and equivalent service is to be provided in Irish. As such language training, whilst it may enable staff to give basic greetings in Irish, has not been effective and is not regarded as efficient for raising capability or confidence sufficiently to provide services in Irish as well as English.

Role, Authority and Networks of Language Officers

Individuals' *willingness* to act depends on their interest to do so whilst *ability* to act depends partly on their access to resources and partly on their position within the organisation. By position here we mean both their formal role within an organisation which can afford them with formal authority, i.e. a recognised right to make decisions, and their social position, i.e. their position in and connections to social networks. Agency also relates to the individuals' self-perception of their role, as well as others receptiveness to them.

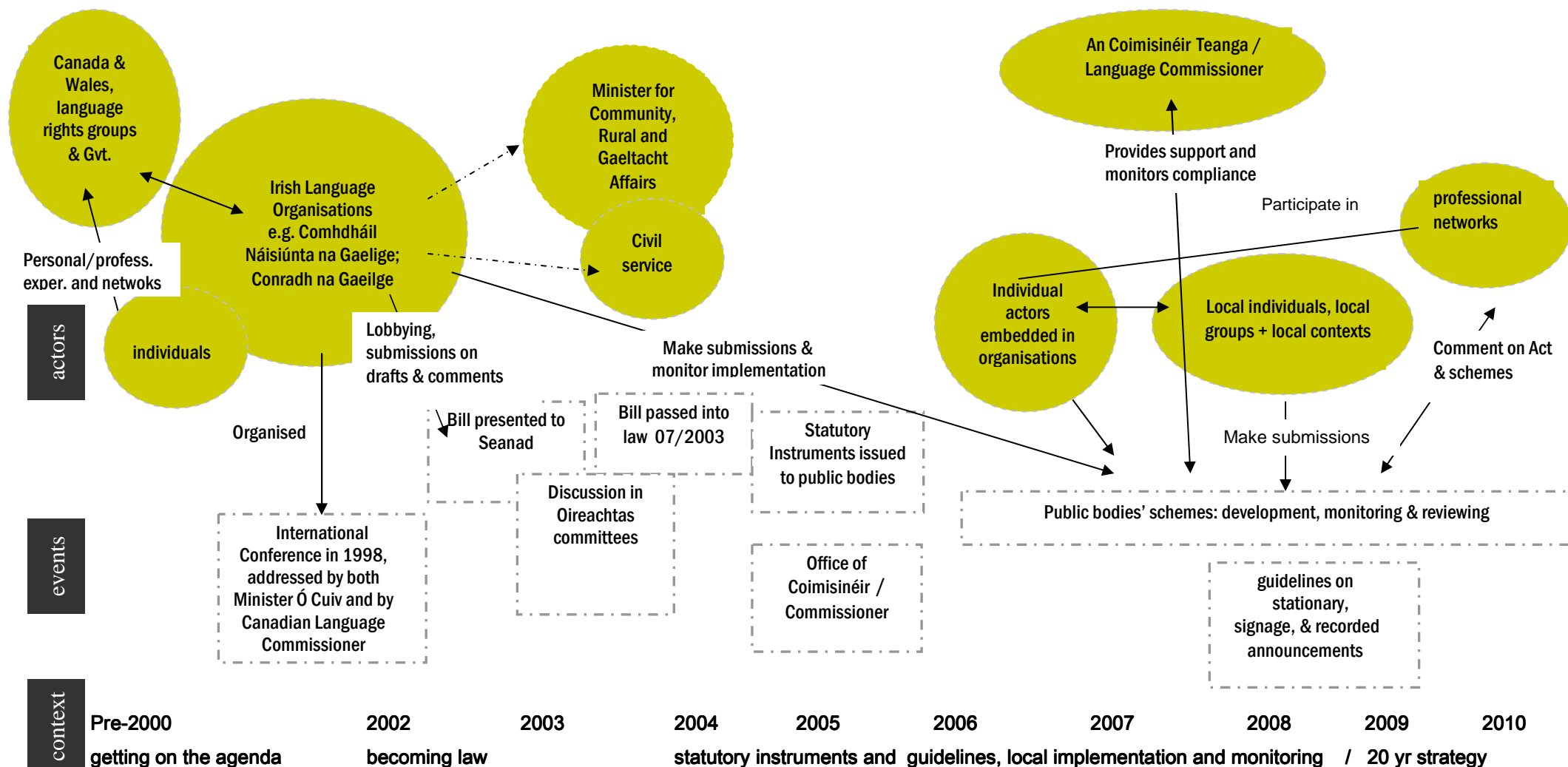
In this study, introduction of the OLA was eased at the site where the Language Officer had managerial status, was externally well-networked and was proactive in initiating contact across the organisation. At the same time staff overall

were receptive to the need for services through Irish, and included members with proficiency in Irish.

This raises questions for organisations as to how they conceive of and position their Language Officer role for greatest effect:

- ~ managerial or non-managerial status
- ~ are they internally orientated providing a service within the organisation?
- ~ Are they seen as someone to go to for translations?
- ~ Are they seen as providing strategic advice on implementation?
- ~ Helping compliance with the act?
- ~ Is their role to respond to staff inquiries or to be proactive on raising awareness and extending practice?

Fig 1: The Policy Trajectory of the Official Languages Act (2003): Actors, Contexts and Events over time.



Conclusions

In conclusion we offer some final comments from this study on three points:

- i. Language planning and policy
- ii. OLA – helps and hindrances
- iii. Policy process in general

Language planning and policy

We have argued that the OLA is shaped on the ground, as local actors, from frontline practitioners to managers, continuously construct their own responses to implementation in line with the particular conditions, histories,

capacities and commitments of the local worksite as well as their own professional and language knowledge and experience. Individual actions are significant, but individual willingness and capability is shaped by the constraints of their organisation position, internal and external networks, interface with service users and access to resources.

Figures 2 and 3 illustrate how these factors can work together either to provide real choice for Irish-speaking service users or to reinforce a sense of low demand.

Fig 2: Where capacity is low: greater need for lead at senior levels

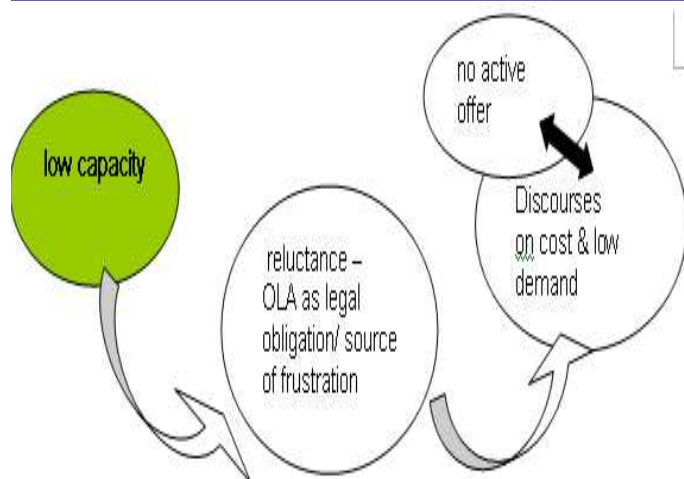
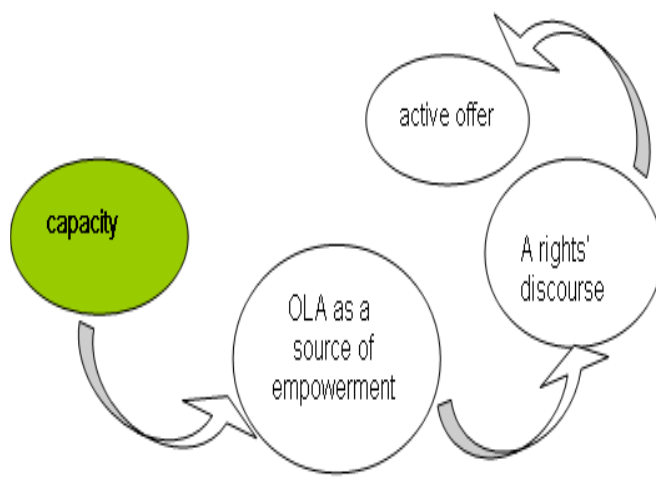


Fig 3: Where capacity exists: *real* choice for Irish speaking service users



In organisations with low capacity in Irish (Fig 2), a greater possibility for reluctance and frustration, and less inclination for *active offer* there is an even greater need for senior leadership if *set ways* are to be overcome. When capacity overlaps with direct service to Irish speakers (Fig 3), there is greater use of active offer, and greater welcoming of the OLA as supportive.

Next steps for the OLA

Figure 4 summarises the factors this study indicates are helping and hindering the implementation of the OLA.

Figure 4. Implementation of Official Languages Act (2003) – Helps and Hindrances

Helps	Hindrances
<ul style="list-style-type: none">▪ Perception of <i>demand</i> / need amongst service users▪ Understanding of <i>service users</i>▪ Desire to <i>stimulate demand</i>▪ Positive orientation/<i>respect</i> for Irish▪ Staff with Irish language <i>capability</i>▪ ‘<i>Bureaucratic</i>’ acceptance of need for implementation▪ <i>Schemes</i> help some bodies set ambitious, concrete objectives for services and help set a target against which bodies can be called to account▪ <i>Language Officer</i> with inclination, position and networks to act as institutional entrepreneur▪ <i>Commissioner’s</i> office and interpretation of role	<ul style="list-style-type: none">▪ Absence of focus on the <i>service user</i> within the guidelines or statutory instruments▪ The Act’s interpretation of ‘<i>service</i>’ as meaning availability of annual reports and accounts▪ Disconnect between implicit assumptions within the Act / guidelines and realities of how people <i>use and consume services</i>▪ Reliance on <i>language training</i> as the main strategy for developing Irish language capability▪ Absence of <i>recruitment</i> strategy to build organisation language capability, making fluent bilingual (Irish/English) integral to the job specification of some jobs with public contact▪ Absence of <i>active offer</i>▪ Absence of <i>incentives for staff</i> to use Irish▪ Absence of <i>penalties or rewards</i> for service organisations

Policy process

Moving from language policy in particular to policy-making in general, we hope to have shown both the need to look at individual agency at the local level and the usefulness of looking to traditions outside policy and planning, [here organisational studies] which can provide fresh insights and perspectives to the policy process.

Looked on as a policy trajectory (Fig 1 above), each context of 'coming on to the agenda', 'formation of texts' and 'implementation' can be used by actors, both central and local, to lobby, negotiate and influence accepted thinking.

Accordingly, people working within implementing bodies are not the passive receivers of policies or the vague resistors once depicted in research accounts, but social *actors* who can exercise agency albeit to different degrees and, within constraints imposed by organisational structures. Local choices may at times be explained as bureaucratic, administrative responses, but can be other – institutional entrepreneurship that acts across functional and organisational boundaries, or sub-altern agency, that subtly shapes outcome, influenced in accord with local norms.