

HOW POLICY IS REALLY MADE

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His recent books include *Policy Bureaucracy. Government with a Cast of Thousands*, with Bill Jenkins (Oxford University Press, 2005); and *Governing by Numbers: Delegated Legislation and Everyday Policy Making* (Hart Publishing, 2001).



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However much they say they haven't, academics tend to have a rather top-down view about how policy is made. We had all the concentration on bottom-up in implementation studies with 'street-level bureaucrats' and such like, but the dominant concentration has been on the top levels when it comes to making policy: that it is the product of interaction between ministers, top civil servants and interest groups. This is seen in the older 'rational' models of policy-making in which the political objectives are first set by the top and decision-making is then about the top people finding the most appropriate means to meet them. But we do not have to cite long gone (if ever really with us) approaches to make this point. The 'policy networks' approach tends to define the members of the policy networks, whether groups, bureaucrats, politicians or others, as the senior people within such institutions and examines interactions at the top.

We have even found a 'top brass' focus with the 'garbage can' model that sets itself against the neat view that policy is deliberated in a calm, if not rational, manner with objectives, costs and benefits weighed up in some form of coherent process. The garbage can model instead posits that governments are diverse with different people pursuing a variety of different agendas and interests. There are solutions waiting for problems to apply them to. People have their own pet schemes that they will bring out of the drawer whenever presented with the opportunity. When there is a problem, it is perceived differently by different people in the organization. People don't always define their preferences precisely—the system is one of 'organized anarchy'. Policy has a life of its own and is dependent on

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something resembling chance—who happens to be at a meeting, whose star is in the ascendant and such like. But even this is rather top-down as it tends to imply that policy is about making decisions in something like boardrooms, whereas the reality is that it is an unstructured process.

The top-down focus of the garbage can approach is highlighted in perhaps its most popular current form: that represented by the framework derived by Kingdon (1984) in the United States. This approach argues that there are three separate streams in the emergence of a policy—the problem stream, the policy stream and the *politics* stream—with policies emerging when there is a confluence of these streams (the political circumstances are right, there are available policies to meet problems there is enthusiasm to solve). A ‘window of opportunity’ can then present itself to senior politicians and policy activists. According to Kingdon, the role of the bureaucrats and lower-level functionaries is subordinate and effectively limited to implementation.

This report is based on three pieces of past research and a fourth piece I have just started. The first was a study of delegated legislation in the UK based on talking to the 120 or so officials who were involved in writing around 50 pieces of legislation (1998–2000); the second was based on interviews with around 150 officials in the (old) grades between higher executive officer (HEO) and grade 7 looking at the range of ‘policy work’ done by these people; and the third was a study of four bill teams, again mainly involving people at the HEO to grade 7 level. Civil service grades are explained in box 1. The fourth ongoing research is a comparative study, funded by a grant from the Economic and Social Research Council (Grant No. RES-000-22-1451) which looks at the role of officials doing policy work in the UK, Sweden, France, Germany, the US and the EU. I have only just started this and the comparative comments come from Sweden, the only other country I have looked at.

What struck me when I talked to officials—initially in the study of secondary legislation—was that the production of policy was a process that involved a group of people initially assumed to be rather routine workers in bureaucracy. There are particular areas of policy that such people are involved in and they are extremely important for making it work.

Box 1. Grades within the civil service.

<i>'Old money' grades</i>	<i>Antiquated rank</i>	<i>New job titles (examples)</i>
Grade 1	Permanent secretary	Permanent secretary/Head of department
Grade 2	Deputy secretary	Director general
Grade 3	Under secretary	Director
Grade 4	Executive director bands	Principal or senior professional (for example principal medical officer)
Grade 5	Assistant secretary	Director/Deputy director
Grade 6	Senior Principal	Adviser/Assistant director/Head of division
Grade 7	Principal	Adviser/Assistant director/Head of branch/Project manager
Senior executive officer	Senior executive officer	Manager/adviser
Higher executive officer	Higher executive officer	Manager/officer
Higher executive officer (development)	Administration trainee	'Fast streamers' occupy a range of jobs
Executive officer	Executive officer/Higher clerical officer	Officer/managerial assistant
Administrative officer	Administrative officer/Clerical officer	Administrative officer
Administrative assistant	Administrative assistant/Clerical assistant	Typist/receptionist

Source: Page and Jenkins (2005).

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Policies can be viewed as having up to four components:

- *Principles*—general views about how public affairs should be arranged or conducted: privatization, deregulation, consumer choice, care in the community, services ‘free at the point of delivery’ or ‘best available technology’.
- *Policy lines*—specific strategies aimed at specific issues or problems that a policy seeks to address. Taking the UK’s Adoption and Children Act 2002 as an example, one policy sought to increase the number of potential adoptive parents, another line on ‘intercountry adoption’ addressed the problems posed by lax adoption laws in other countries. Yet another line was to develop registers of adoption agencies, and there were several other distinct lines in this broad law.
- *Measures* are the specific instruments that give effect to distinct policy lines: the legal requirements to be met by people entering the country with children not their own is one measure, inserting a new clause in the law prohibiting homosexuality as a barrier to adoption is another.
- *Practices* are the behaviour of officials normally expected to carry out policy measures. The term includes implementation in its narrow sense: how officials at ports of entry treat families returning to the UK and how adoption counsellors change the way they place children.

This is not a hierarchy, you don’t always start with ‘principles’ and work down, but the point is that there are a variety of components of what goes to make policy overall: it is a production process. Not a conveyor belt certainly, but different activities and people go to make it up. The officials I spoke to (from HEO to grade 7 mainly) were involved in some way with all four parts of the production process, especially ‘measures’ and ‘policy lines’.

What can we say about the production process as far as these middle-ranking officials are concerned?

The political direction to which policy officials work in developing lines and measures are often extremely broad

Politicians do not generally have clear ideas about what they want.

Take the reform of the government grant to local authorities restructured a few years ago. The team of officials working on that seemed to have been told by their ministers nothing more specific than that they wanted a 'fairer' and 'more easily understandable' system (on top of some mention of removing perverse incentives in the fire service related to the fact that the more fires, the more money)—goals which are not only vague but also almost by definition contradictory. An official given the responsibility of developing a white paper in a major public service was told to scope the white paper for himself—what should be in and what should be out of it—by talking to people. The most that might be expected is that the officials in charge of something are given a report (by the Strategy Unit, for example) and told to write it up. In both cases where I came across legislation based on such reports, the teams involved pointed out that the general ideas were so vague that the report was not much of a guide to how policy should be developed.

The structure of political approval in the UK encourages officials to use their own judgment in developing policy

Senior officials, still less politicians, tend not to look over the shoulders of policy officials as they go about their work. The officials I spoke to felt they were not able to ask for direct instructions about precisely what they were expected to do very easily. You spoke to your grade 7 or even grade 5, but she/he was not always in much of a better position than you to know what direction you should be going in. From the minister and top people you asked for a 'steer'. A nice word this as it implies a non-binding instruction: to exaggerate slightly, it means that the minister (or senior civil servant) gives you an instruction that they will not necessarily hold you to and which you can seek to change without much loss of face, though you do your best to follow it. The point about a steer is that you have to ask for it as a middle-level official and you have to have done enough on the policy proposal you are working on to reach a clear juncture where you can legitimately ask for a steer—possibly by presenting 'alternatives' for the minister to choose from (although most people emphasised the possibility of rather 'straw men'-type alternatives).

The fact that the minister has to approve anything of significance can help ensure that officials do not go it alone. A worrying part of

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this pattern is that ministers don't always take much of an interest in policy development, especially non-contentious issues or issues that are involved and require detail—a lot of policy work is like this. Many officials complained that they could not get the minister to engage with a particular issue.

This is quite different to other countries. In Sweden, for example, the differences are quite striking. There you have a political level of the bureaucracy that gets involved in the daily decision-making of (smaller) ministries (much in Sweden is in agencies). There are lots of communal spaces for officials to talk to each other, moreover the state secretary (who has the seniority of a permanent secretary but is a political appointee) sees everyone, even fairly junior people, on a weekly basis. And political advisers take an active part in policy development in a way that I have not seen in the UK. The Swedish officials did not find they had to imagine or second guess what the state secretary would want: the political direction was clear at all stages and they followed it.

The level of prior knowledge or expertise is low even among those (temporarily) specializing in a policy issue

Just like the higher reaches of the civil service, the levels around grade 7 to HEO are not specialist (see Page and Jenkins, 2005 for the statistics). While most have a degree (78%), not all do, and most degrees have little to do with subsequent work (see tables 1 and 2—tables are taken from Page and Jenkins, 2005).

And careers are not specialized as people stay in jobs for an

Table 1. Educational background of officials interviewed.

<i>Qualification</i>	<i>N</i>	<i>%</i>
Higher degree	14	13
Bachelor degree before joining civil service	78	70
of which Oxbridge	21	19
Did university degree while a civil servant	7	6
Dropped out of university	7	6
No university degree	27	24
Total valid responses	112	138*

*Column adds up to over 100% as multiple codings were possible.

Table 2. Average period in post at time of interview (months).

<i>By grade</i>	
Grade 7	18
SEO	18
HEO	16
HEO(D)	11
<i>By type</i>	
High flier	14
SCS aspirant	19
Middle-ranking aspirations	19
<i>Average (all groups)</i>	17

Table 3. Length of time in current post.

<i>Length of time</i>	<i>N</i>	<i>%</i>
Over 36 months	4	4
25–36 months	13	14
13–24 months	29	32
9–12 months	21	23
Under 9 months	23	26
<i>Total</i>	90	100

average of around three years—see tables 2 and 3. Moreover, when people move they tend to do different types of things—specialization, despite recent claims to the contrary that civil servants might be expected to develop ‘career anchors’ in particular specialisms (see Cabinet Office 2004), is not a help to the career (see table 4).

This contrasts with other countries such as Germany and Sweden. It is quite normal for an official to remain a ‘desk officer’ in a particular area for a long part of her or his career within a ministry. Another indication of the lack of technical specialization in the UK is the fact that officials involved with other EU member states remark on it, for example:

The big difference is that different countries send different types of people. The Greeks send very senior people—they cannot, it seems, authorize more junior people to come. Some countries send their real technical experts...Some people

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have been in their jobs for ages. One of the first meetings I went to everyone was in tears as one of the people who had been there 25 years was leaving! Can you imagine that, 25 years? Mind you, the fact that our people are always changing is something the Commission always complains about.

There are one or two exceptions in the UK—some of the people under the Proceeds of Crime Act 2002 had been in the field a while (interestingly, they can be credited with having started the whole thing off, including developing ideas which were subsequently adopted by the Labour party and appeared in their 2001 manifesto).

Officials must look for a range of cues about what to do

Officials are often thrown in the deep end. A striking example of this was explained by an HEO (nine grades from the top of the civil service) who was asked to write some regulations for a major and reasonably high profile government agency:

The grade 6 came to us and asked us to do the regs [regulations]. We, Sue and I, had never done regulations or policy work before and we were told ‘you’re doing it’. All I had was an [HND in] public administration from...[the]...1960s. I knew nothing about them. We spoke to people who had been involved in them. We got the name of the departmental solicitor and spoke to him. Sue’s uncle is an MP and he helped. He sent us a load of material about the process of passing

Table 4. Percentage doing similar work.

	<i>N</i>	<i>As percentage of grade</i>
All grades	32	31
of which:		
Grade 7	19	36
HEO	8	36
SEO	3	21
HEO(D)	2	13
<i>Not doing similar work</i>		
All grades	72	69
<i>Total</i>	104	100

regulations in parliament...I was temporarily promoted from HEO to SEO to do the job, my EO was temporarily promoted to HEO. We [were] working directly to a grade 6 with no other support.

How on earth do you write legislation on adoption when you are new to the area? Or decide what to recommend to the minister who wants to simplify the baffling variety of small business schemes when you only left university two years ago and this is your first policy job?

Officials are often left on their own to look for a range of cues: *political cues* about what is acceptable including parliamentary speeches, newspapers, white papers, select committee reports and government responses to them. People we interviewed said they got substantive cues from talking to other officials, going to interest group conferences and generally trying to mug up on things.

Implications

There are several points I would raise by way of conclusions. The development of ‘policy lines’ and ‘measures’ is crucial as it is at this level that much of the scope and impact of a policy is shaped. This is not only because in many cases the precise shape and scope of any legislation is rarely envisaged, let alone fixed, at the time ministers commit themselves to legislation or to developing other forms of policy instrument, but also because relatively small changes in the measures by which policy lines are developed can make a policy more limited in scope or even ineffective. How, for example, matrimonial homes or pensions are treated by those seeking to seize money from drug dealers is a detail that can create (or prevent) huge loopholes in a law on civil forfeiture of criminal assets, or how dangerous dogs are actually defined makes the difference between a powerful or a near dead-letter law.

There are a number of significant UK problems of policy-making which need to be debated and resolved:

- The problem of presumed authority—what has a minister actually agreed to? For example the Scottish Office before devolution appears to have believed or suggested that ministerial approval had been given for the Scottish Parliament project yet no record could be found, and the death of the secretary of state meant

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he was unable to clear up the matter of what had been approved (see the *Scotsman*, 2004).

- The problem of confidence in expertise—how does a minister know whether the advice comes from someone who knows what they are talking about? A good example of this was the ‘dodgy dossier’ on Iraq which has had some pretty serious consequences worldwide.
- The problem of locking in (ministers agreeing to things without thinking them through). In a recent ombudsman investigation it is clear that defence ministers had become committed to untenable ‘blood’ definitions of who was ‘British’, and thus entitled to compensation for being imprisoned by the Japanese in China during the Second World War which caused the minister considerable difficulty in trying to reverse—see Ombudsman (2005).

But any system has distinctive problems: what I cannot tell from asking people is whether the UK’s system is ‘worse’ than others. But there must always be room for improvement and we need to know:

- Is there any way to get ministers and the press, or even political advisers interested in detail and is it a good thing if they could be so motivated?
- What do you need by way of skills to make policy in this environment? Is there really no alternative to the generalist career? Despite all sorts of efforts the results have not seemed to make much difference.
- What is the role of the higher reaches in all this? Is there more that the senior officials and/or politicians should be doing to guide policy? ■

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