12 The importance of organisational processes

SYNOPSIS

The public policy process, particularly that part of it concerned with implementation, is very largely an organisational process. It involves work within (intra-) and between (inter-) organisations.

Public organisations are often described as bureaucracies. A brief discussion explores the implications of the use of the word 'bureaucracy' in light of the fact that it is often given a pejorative sense. This leads onto an examination of the most influential theoretical analysis of public bureaucracy, provided by the German sociologist Max Weber, and an exploration of the way his ideas have been used by others. A brief account is provided of some other key work on the sociology of organisations that is important for understanding public sector organisations. In the end this leads to the introduction of a theory that suggests that the classical theory exaggerates the significance of the unitary, closely regulated, formal organisation when the actual boundaries between aspects of human life, and therefore between organisations, can be quite fluid.

The section on 'rules and discretion' seems to involve a distinct change of emphasis, particularly as some of the important work analysing this has been done within academic law. However, the aim in that section, and the one that follows it on the treatment of the same theme in organisational sociology, is to show how issues about possibilities of and limits to control are of fundamental importance for understanding how policy process decision making is handled in many contexts.

The emergence of extensive efforts by governments to make policy, in the twentieth century, is generally also seen as involving the creation of unitary bureaucratic states. Since the 1980s that model of public policy making and implementation has come under challenge. This was noted in Chapter 1 as

involving a transition from government to governance. But of course we are talking here about partial changes and the unitary model remains of importance. In any case it needs to be seen as the starting point for its alternatives. Hence this chapter, and to a large extent the next one too, is about unitary bureaucratic government. The issues about governance are then explored in Chapter 14.

In the first part of the book it was shown that some of the key theories of the state – particularly elitist theories, rational choice theories and institutional theories – concern themselves with issues about bureaucratic power, often seeing it as involving the domination of the policy process by those inside the organisational system. The word 'bureaucracy' is a neutral term used to describe a complex organisation, particularly a governmental one. But it is also used in a pejorative sense to denote an impenetrable, ponderous and unimaginative organisation.

In many discussions of the role of organisations in the modern world these complex 'bureaucracies' are seen as necessary evils. As Perrow puts it, 'Without this form of social technology, the industrialized countries of the West could not have reached the heights of extravagance, wealth and pollution that they currently enjoy' (Perrow, 1972, p. 5). The emphasis upon bureaucracy as a potentially problematical form of organisation, highlighted by the frequency with which the term is used pejoratively, has two separate key concerns which can be described simply as concerns about (a) accountability and (b) efficiency and effectiveness. One tendency of critiques of bureaucracy is to stress problems with making government organisations accountable to the people. Another is to emphasise the extent to which they are unsatisfactory 'instruments' for the carrying out of policy – they are seen as increasing costs and distorting outputs.

Protagonists at both ends of the political spectrum offer solutions to the alleged problem of 'bureaucracy' in public policy. For many on the 'Right' the solution is the allocation of goods and services by way of the market, with the role of government kept to a minimum. The market offers a mechanism which is accountable, because the public are then consumers and are able to make choices about what they purchase, and efficient, because providers are in continuous competition with each other. The libertarian 'Left' alternatively sees a world in which capitalist power is curbed or overthrown as offering the possibility of free collaboration between equal citizens in meeting their needs. Both extremes embody a utopian element – in the case of the 'Right', a belief in the feasibility of a really competitive market rather than an economy in which there is a tendency for monopoly to develop and for choices to be limited and manipulated; in the case of the 'Left', a world in which big government is as unnecessary as big capitalism.

The utopianism of the 'Right' is more important for the modern political agenda than that of the 'Left', partly because of the dominance of capitalist ideology and partly because the history of communism has offered so dramatic a betrayal of its idealistic roots. Yet nearer the centre of the political debate the idealistic assertions of both camps offer key poles for debate about public policy – concerning the extent to which there are problems about

organising the public sector and regulating the market sector. This takes us back to Perrow's neat aphorism. Complex organisations are needed to meet the needs of modern society because governments are engaged in a complicated combination of direct provision and market regulation. Moreover, they have to cope with trade-offs between the two. In most of the twentieth century the tendency was for governments – at least in Western Europe – to see direct provision as preferable to regulation in many areas of social and economic life. This forced them to focus on issues about the control of their own large, bureaucratic organisations. In the final quarter of the century there was something of a reaction against this approach. But that heightens the need for attention to regulation, essentially an issue about the relationships between government organisations and private or quasi-autonomous ones. The worries about 'bureaucracy' have not been dispelled, as many within the 'neo-liberal Right' had hoped – rather, they take new forms, forcing us to reconceptualise bureaucracy in a more complex way. This reconceptualisation has been a key concern of work which sees late twentieth-century innovations in the public sector as a 'new public management' movement (Hood, 1991; Pollitt, 1990). New public management is discussed further in Chapter 15.

These normative and prescriptive arguments are not the main concerns of this book. However, some of them will emerge again in the analysis of the issues about accountability in Chapter 15. They have also coloured much theorising and research about organisational behaviour. And, as the last paragraph suggests, they have had an impact upon innovation in public policy and particularly on efforts to influence the implementation process.

Max Weber and the theory of bureaucracy

The work of a German theorist, Max Weber, active at the end of the nineteenth century and in the early years of the twentieth, was particularly important for the development of the theory of organisations. Furthermore, it was the organisation of government in the modern state that particularly concerned him. He observed the development of a powerful unified civil service in Germany, recognising its potential as an instrument of government and worrying about its implications for democratic accountability.

Weber embedded his theory of bureaucracy in a wider theory of social power. His discussion of bureaucracy is linked to an analysis of types of authority. He postulates three basic authority types: charismatic, traditional and rational–legal (see Box 12.1). He sees the last-named as characteristic of the modern state.

Weber regards the development of bureaucratic administration as intimately associated with the evolution of modern industrialised society. Bureaucratisation is seen as a consequence of the development of complex economic and political systems, and also as a phenomenon that has helped to make these developments possible.

Box 12.1	Max Weber's analysis of types of authority

Charismatic authority is based upon 'devotion to the specific and exceptional sanctity, heroism or exemplary character of an individual person' (Weber, 1947, p. 328). It is a transitory phenomenon associated with periods of social turmoil; the essentially personal nature of the relationship between leader and follower makes the development of permanent institutions impossible and accordingly it succumbs to processes of 'routinisation' which transform it into one of the other types of authority.

Traditional authority, on the other hand, rests upon 'an established belief in the sanctity of immemorial traditions and the legitimacy of the status of those exercising authority under them' (ibid.). While charismatic authority's weakness lies in its instability, the weakness of traditional authority is its static nature. It is thus argued to be the case that the rational–legal type of authority is superior to either of the other two types.

Weber states that rational-legal authority rests upon 'a belief in the legality of patterns of normative rules, and the right of those elevated to authority under such rules to issue commands' (ibid.). The maintenance of such a system of authority rests upon the development of a bureaucratic system of administration in which permanent officials administer, and are bound by, rules.

Students of Weber have differed in the extent to which they regard him as a theorist who believed that bureaucracy can be subjected to democratic control. He was clearly ambivalent on that topic. Whilst the use of 'bureaucracy' as a pejorative term (see the discussion above) clearly predates Weber, he must be seen as the theorist who effectively poses the dilemma: here is an instrument that enables much to be done that could not otherwise be done, but there is a need to be concerned about how it is used, how it is controlled and who controls it (Albrow, 1970; Beetham, 1987).

The strength of the bureaucratic form of administration, according to Weber, rests upon its formal rationality, a notion which a number of modern students of organisations have equated with efficiency. This translation of Weber's concept has led to some useful discussions of the relationship between formalism and efficiency but has also given currency to a rather unsubtle characterisation of Weber's theory. Albrow (1970) shows how this confusion arose and provides the following clarification of Weber's position:

The real relation between formal rationality and efficiency can best be understood by considering the means by which efficiency is commonly measured, through the calculation of cost in money terms, or in time, or in energy expended. Such calculations are formal procedures which do not in themselves guarantee efficiency, but are among the conditions for determining what level of efficiency has been reached. At the heart of

Weber's idea of formal rationality was the idea of correct calculation, in either numerical terms, as with the accountant, or in logical terms, as with the lawyer. This was normally a necessary though not sufficient condition for the attainment of goals; it could even conflict with material rationality. (Albrow, 1970, p. 65)

Weber's theory is seen as providing a number of simple propositions about the formal structure of organisations, a misconception that has contributed to his usefulness to students of organisations but which does not do justice to the depth of his understanding of the critical issues in organisational sociology. As he outlines the characteristics of an organisational type that is important in complex societies because of its formal rationality, he naturally stresses the strength of that type rather than its weakness. Weber's work defines a widespread kind of organisation and explains why it is growing in importance, offering thereby sociological analysis which may be separated from political polemic.

Weber lists a number of characteristics which, taken together, define bureaucracy. These characteristics are set out in Box 12.2. While Weber does not see these characteristics as prescriptions for organisation, many subsequent writers have seized upon their similarity to the model prescribed by others who were searching for the best way to organise.

Perhaps the most influential figure in the search for principles of organisation before the First World War was F. W. Taylor (1911). He was an

Box 12.2 Max Weber's delineation of the characteristics of bureaucracy

1. A continuous organisation with a specified function, or functions, its operation bound by rules. Continuity and consistency within the organisation are ensured by the use of writing to record acts, decisions and rules.
2. The organisation of personnel is on the basis of hierarchy. The scope of authority within the hierarchy is clearly defined, and the rights and duties of the officials at each level are specified.
3. The staff are separated from ownership of the means of administration or production. They are personally free, 'subject to authority only with respect to their impersonal official obligations'.
4. Staff are appointed, not elected, on the basis of impersonal qualifications, and are promoted on the basis of merit.
5. Staff are paid fixed salaries and have fixed terms of employment. The salary scale is normally graded according to rank in the hierarchy. Employment is permanent with a certain security of tenure, and pensions are usually paid on retirement.

Source: Based on Weber (1947), pp. 329–41.

American who tried to develop scientific principles for industrial management based upon a series of generalisations which he claimed to be of universal application. His importance for this account is that he has been widely seen as the leading exponent of methods of organisation which rest upon treating human beings as units of labour to be used 'efficiently' without regard to their needs, attitudes and emotions (Braverman, 1974). Hence a great deal of the subsequent concern about human relations in organisations emerged from the exposure of the limitations of 'Taylorism'. Despite that exposure the influence of Taylorism lives on. Pollitt (1990) has described much modern managerialism in the public services as 'neo-Taylorism'. He argues:

> Taylorism was centrally concerned with the 'processes of determining and fixing effort levels' and can be seen as 'the bureaucratization of the structure of control but *not* the employment relationship' (Littler, 1978, pp. 199 and 185 respectively). It proceeded on the basis that . . . the work process could and should be measured by management, and then used as a basis for rewarding and controlling effort . . . . This is not far, in principle, from the recent epidemic of electronically-mediated public-service systems of performance indicators, individual performance review and merit pay. (Pollitt, 1990, p. 16)

Taylor was working for the Ford motor company, a pioneer in mass production methods. Hence other theorists have spoken of 'Fordism' (Sabel, 1982) to describe an approach to organisation in which Taylorist methods are used to try to reduce workers to commodities, performing limited tasks in tightly regulated conditions for the lowest possible rewards. Whilst public policy implementation is seen as less likely to embody circumstances in which such mass production is feasible, Taylorism or Fordism can be seen to offer one model for the public bureaucracy (see Pollitt, 1990). It is one model, moreover, which may be seen as solving the dilemma of accountability – at least as far as routine tasks like social benefit administration are concerned – by ensuring a rigid adherence to hierarchically (and thus perhaps ultimately democratically) determined rules. This is an issue to which we will return below when we explore the relationship between rules and discretion.

But that is only one way to take the Weberian model, seeking to make it simply a compliant instrument. Other ways suggest that there are problems with this, and observe some of the tensions and contradictions in the 'ideal type'. In the 1920s and 1930s, management theory gradually began to move away from a concern with the development of formal prescriptions for organisational structure towards a better understanding of organisational life (see Box 12.3). This development, while still firmly preoccupied with the question of how to control subordinates within the industrial enterprise, nevertheless eventually contributed to a transformation of the way organisations are understood.

Box 12.3	The role of the Hawthorne research programme for an understanding of the importance of human relationships in organisational life

An important contribution to understanding the importance of human relationships in organisational life came from research carried out under Elton Mayo at the Hawthorne Works in Chicago during the late 1920s and early 1930s (Roethlisberger and Dickson, 1939). The researchers were influenced by research on morale carried out during the First World War, and by developments in social psychology and by Freudian psychology. The development of a more complex approach to social structure by sociologists and anthropologists also had an impact on their work.

The importance of the Hawthorne researchers lies in the way they shifted the emphasis in organisation theory from a mechanical concern to discover the 'one best way' to organise work tasks to a recognition of the importance of human relationships for organisational performance. The early research draws attention to the relevance of managerial interest in workers' activities for motivation and morale, while later work throws light upon relationships within the work group.

The Hawthorne researchers demonstrate the need to analyse organisations as living social structures. They indicate that to regard an organisation as merely a pattern of formal roles is likely to make it impossible to understand fully the determinants of behaviour, even formally prescribed behaviour, within that organisation.

The development of the sociology of organisations

As the social sciences began to grow in importance in the United States in the 1940s and 1950s, two developments in organisation theory – one stimulated by the work of Max Weber, the other influenced by the more obviously relevant findings of the Hawthorne research (see Box 12.3) – began to come together. Sociologists, using Weber's work (or their understanding of it) as their starting point, set out to show the importance of patterns of informal relationships alongside formal ones. Social psychologists, on the other hand, sought to explore the conflict between human needs and the apparent requirements of formal organisations. Drawing on this work, administrative theorists sought to update the old formal prescriptive models with more flexible propositions based upon this new understanding of organisational life (Argyris, 1964; Herzberg, 1966; McGregor, 1960).

Once Weber's work became available to sociologists in the United States in the 1940s and 1950s, it was applied to organisational studies as a kind of model against which real situations might be measured. By treating it in this way sociologists began to identify problems with the rational model of

bureaucracy, often unjustly alleging that Weber had not been aware of them but nevertheless usefully advancing organisational theory.

In some of this work it is suggested that there is likely to be a conflict within a bureaucratic organisation between the principle of hierarchy and the need to maximise the use of expertise. Gouldner (1954) makes this point in the following way:

> Weber, then, thought of bureaucracy as a Janus-faced organisation, looking two ways at once. On the one side, it was administration based on expertise: while on the other, it was administration based on discipline. (Gouldner, 1954, p. 22)

Bureaucratic organisation is founded upon the need to make the maximum use of the division of labour. Such division is based upon the need to subdivide a task either because of its size or because it is impossible for a single individual to master all its aspects. In fact, in most cases both of these reasons apply. The principle of hierarchy rests upon the notion of the delegation of responsibility to subordinates. If the superior could perform the whole of the task that is delegated, there would be no need to have subordinates. He or she will delegate part of the task either because of a lack of time to do it alone, or because he or she has neither the time nor the knowledge to perform certain parts of the task. Inasmuch as the latter is the case, it is obvious that in respect of at least part of the task the superior is less expert than the subordinate. But even in the former case this may also be true, since, particularly as far as tasks that require decision making are concerned, the subordinate will be in possession of detailed information which, in delegating responsibility, the superior has chosen not to receive. We are back here, of course, to the issues about the likelihood of discretion in action (explored in the cookery example in Box 10.7).

It is for these reasons that, as far as the detailed functioning of any organisation with complex tasks to perform is concerned, it must be recognised that expertise resides to a large extent in the lower ranks of a hierarchy. And it is for these reasons that it is inevitable that there tends to be conflict between authority based upon expertise and authority based upon hierarchy in bureaucratic organisations.

The apparent inconsistency in Weber's theory identified by Gouldner has helped to provoke several valuable studies of conflict between experts and administrators within organisations. An allied topic that has also been explored is the conflict that exists for experts between professional orientation and organisational orientation in their attitudes to their work (Gouldner, 1957–8; Reissman, 1949).

A second important theme deriving from Weber's work concerns the relationship between rationality and rigidity. One of the earliest essays on this theme was Merton's (1957) discussion of bureaucratic structure and personality. This emphasis fits with the arguments about expertise within organisations. The implications of this point and the one in the previous paragraph for the behaviour of bureaucratic employees will be explored further (see Chapter 13).

Box 12.4 Burns and Stalker's distinction between mechanistic and organic management systems

Mechanistic systems, involving formal structures broadly comparable to the Weberian model, are, their research suggests, most suitable for stable, unchanging tasks. Organic ones are, by contrast, best

adapted to unstable conditions, when problems and requirements for action arise which cannot be broken down and distributed among specialist rules within a clearly defined hierarchy. Individuals have to perform their special tasks in the light of their knowledge of the tasks of the firm as a whole. Jobs lose much of their formal definition in terms of methods, duties, and powers, which have to be redefined continually by interaction with others participating in a task. Interaction runs laterally as much as vertically. Communication between people of different ranks tends to resemble lateral consultation rather than vertical command. Omniscience can no longer be imputed to the head of the concern. (Burns and Stalker, 1961, pp. 5–6)

Burns and Stalker base their dichotomy on experience of research into two contrasting industrial situations.

All this sociological work led to an exploration of the relationship between organisational structure and organisational tasks. Thus, the question raised was whether the 'rational' structure may be well adapted to some tasks but ill adapted to others. Two British researchers, Burns and Stalker (1961), made an important contribution on this theme. They drew a distinction between 'mechanistic' and 'organic' management systems (see Box 12.4). Other sociologists began, however, to raise wider questions about the fit between organisational task and structure by examining a wide range of work situations. Some other British research played a seminal role in this development. First, Woodward (1965) developed a typology of industrial organisations based upon differences in technology. Then, later sociologists, notably a group working together at Aston University, began to argue that the varied and multi-dimensional nature of organisational arrangements is determined by a variety of 'contingencies' (see Greenwood et al., 1975, for an application of this work in public organisations). These include variables which are external to the organisation in its 'environment', variables determined by the power structure in which it operates, and variables which will depend upon 'ideology', or what Child (1972) describes as 'strategic choice'.

Organisations have thus to be recognised as being power systems in which structural features interact with, and are affected by, factors which make some participants within them more powerful than others. Hence Salaman argues:

What occurs within organisations, the ways in which work is designed, control applied, rewards and deprivations distributed, decisions made,

must be seen in terms of a constant conflict of interests, now apparent, now disguised, now overt, often implicit, which lies behind, and informs, the nature of work organisations within capitalist societies. (Salaman, 1979, p. 216; see also Clegg, 1990, and Clegg *et al.*, 2006, for more on these contributions to organisational theory.)

Beyond the single organisation perspective

These power relations within organisations are in various respects related to others outside the organisation. This issue was explored in the discussion of institutional theory in Chapter 4. Note there Selznick's concern to show how behaviour within organisations may be influenced by social life outside them, leading on to theoretical approaches that stress 'cultural rules'. A strong emphasis upon formal organisation structures sees behaviour as determined by rules belonging to the organisation. There are grounds for asking, as Gouldner (1954) does, who makes those rules, or in whose interests they operate; we return to that later in the chapter. The boundaries between organisations are social constructions that may vary and may be disputed. Knoke argues: 'Boundaries maintained by organizational authorities or the participants themselves are more or less based on the type of organization' (1990, p. 86). Having noted 'total institutions' at one extreme, he goes on to say:

> Less rigid organizations, such as volunteer groups, maintain only informal boundaries; for example, the Red Cross counts as a member anyone who has ever donated blood [reference here is to the United States]. These porous boundaries are defined mainly be the members themselves, and the leaders have little power over them. (ibid.)

The traditional emphasis on closure in respect of organisations implies a contractual obligation upon a paid employee, and in respect of state organisations also other obligations embodied in codes of conduct (even perhaps the signing of a declaration to protect official secrets). The important question here then is about the extent to which more flexible forms of organisation in and around the public sector, involving networks and inter-organisational relationships, make it necessary to revise the formal model embodied in bureaucratic theory.

Issues about the policy process that can be seen as occurring within a single organisation and those that concern relationships between organisations can in most respects be understood in common-sense terms. Distinctions between what goes on, for example, within a government department and between departments are often made, and need no explanation. However, at the margins it may be difficult to make this distinction. Boundaries may

be permeable and changing. This issue has become more important in the modern world of governance, two of the characteristics of which are the abandonment of simple hierarchical arrangements and the creation of hybrid organisational forms in which tasks may be subcontracted and shared. Hence, individuals may work for more than one organisation and services may depend upon collaborative arrangements. Inasmuch as this is the case, the distinction drawn here may be a misleading one. Chapter 14 returns to this theme.

Rules and discretion

We need to return here to the topic of the relationship between rules, which specify the duties and obligations of officials, and discretion, which allows them freedom of choice of action. This topic, clearly very central to the accountability concerns of the top-down model of implementation, is, not surprisingly, also a preoccupation of a body of literature on public law. However, these legal preoccupations tend to involve an approach to these concepts which sees rules very much in a statutory context and discretionary actions as involving not so much individual choice of courses of action (which many will take for granted as inevitable) but as particular cases of legitimate departure from action prescribed by a legal rule structure.

In any administrative system regulated by law, discretion will be embedded in a rule structure – at the very least in a form that will make it clear that only in a very specific set of circumstances can officials do what they like (probably the laws which come nearest to this form are those that give certain officials very wide discretion to act in the interests of public safety). This embedded character of discretion leads to a rather confusing argument between those who use broad and those who use narrow definitions of the concept. Perhaps the most influential definition of discretion is Davis's: 'A public officer has discretion wherever the effective limits on his power leave him free to make a choice among possible courses of action and inaction' (1969, p. 4). Others have used quite restrictive definitions, reserving the concept for only some of the phenomena embraced by Davis's definition. For example, Bull (1980) and Donnison (1977), in their separate discussions of social security discretion, draw a distinction between judgement, where the simple interpretation of rules is required, and discretion, where the rules give specific functionaries in particular situations the responsibility to make such decisions as they think fit. This seems to be drawing an unnecessary distinction. If all discretion is embedded to some extent in a rule structure (being what Dworkin has called 'the hole in the doughnut', 1977), then Bull and Donnison are merely drawing a distinction between more and less structured discretion, or between what Dworkin has called weak and strong forms (ibid., p. 31).

The approach in this book is to use the concept of discretion in the wide sense embodied in Davis's definition. This is partly influenced by a belief that social scientists should try to avoid imposing their own restrictive definitions of concepts used in everyday speech. But it is also justified by the fact that this discussion is concerned to see to what extent discretion is a useful concept with which to explore delegated decision-making processes.

The use of a wide definition like Davis's implies a concern with almost all decision-making situations since, as Jacques (1967) points out, almost all delegated tasks involve some degree of discretion. This, of course, was the point made in Box 10.7, with particular reference to cooking. The study of discretion must involve, by implication, the study of rules, and may alternatively be defined as being concerned with the extent to which actions are determined by rules. This also means that students of discretion must be concerned with rule breaking since in real-life situations the interpretation of the extent to which rule following allows discretion merges imperceptibly into the witting or unwitting disregard of rules.

Davis's definition comes from a book in which he argues that any rule structure within which discretion is exercised should be drawn as tightly as possible. He argues: 'Our governmental and legal systems are saturated with excessive discretionary power which needs to be confined, structured and checked' (1969, p. 27). Later in the same book he argues that:

> we have to open our eyes to the reality that justice to individual parties is administered more outside courts than in them, and we have to penetrate the unpleasant areas of discretionary determinations by police and prosecutors and other administrators, where huge concentrations of injustice invite drastic reforms. (ibid., p. 215)

Davis argues that citizens' rights to procedural justice can best be achieved through earlier and more elaborate administrative rule making and in better structuring and checking of discretionary power (ibid., p. 219). He thus has a prescriptive concern about the need for the public organisation to control the discretionary power of the individual public officer, and he feels this should be primarily attempted through rules that are open to public inspection.

In Britain, Jeffrey Jowell carried forward the kind of concern about discretion shown by Davis in the United States. Jowell's definition of discretion is similar to Davis's. He defines it as 'the room for decisional manoeuvre possessed by a decision maker' (Jowell, 1973, p. 179), and argues that the key need is to ensure that decision makers cannot make arbitrary decisions. However, Jowell lays a far greater stress than Davis upon difficulties with reducing administrative discretion. In particular, he shows how many of the considerations with which decisions must be concerned are inherently difficult to specify in rules. Legislators are concerned to prevent dangerous driving, for example, to ensure that food is pure, and that factories are safe. The provision of clear-cut rules to define what is safe or dangerous, pure or polluted, is often difficult. It may be that legislators need the help of the experts who are to

enforce the law to provide some specific rules. In this sense discretion may be limited at a later date when experience of enforcement enables explicit rules to be devised. It may be that conflict over the legislation has led to a blurring of the issues, and that legislators have evaded their responsibility to make more explicit rules. But it may be the case that the translation of standards into explicit rules is so difficult as to be practically impossible.

Jowell provides a valuable discussion of the problems of fettering discretion where concern is with the enforcement of standards. He argues that standards may be rendered more precise by criteria, facts that are to be taken into account. However, he argues that 'the feature of standards that distinguishes them from rules is their flexibility and susceptibility to change over time' (Jowell, 1973, p. 204).

Jowell does not accept a simple dichotomy between rules and discretion as suggested by Davis, but rather argues that discretion 'is a matter of degree, and ranges along a continuum between high and low' (1973, p. 179). At first glance, rules may appear to abolish such discretion, 'but since rules are purposively devised . . . and because language is largely uncertain in its application to situations that cannot be foreseen, the applier of a rule will frequently be possessed of some degree of discretion to interpret its scope' (ibid., p. 201). This last comment suggests that any study of discretionary decision making requires a consideration of social processes internal to the organisation and a study of the attitudes and beliefs of those who have to interpret the rules.

Jowell's arguments suggest a need to relate any evaluation of discretion to the substantive issue involved. He suggests some reasons why discretion may be inevitable. Alongside complex difficulties about specifying standards are 'polycentric' issues where many factors interact (Baldwin, 1995, p. 29). This suggests a need to identify types of decision situations in which discretion is more likely. That is a topic to which we return in the discussions of street-level work in Chapter 13 and of accountability in Chapter 15.

These issues have been taken up in other legal writing on discretion – hence Dworkin's (1977) distinction between strong discretion, where the decision maker creates the standards, and weak discretion, where standards set by a prior authority have to be interpreted. Galligan (1986) is similarly concerned to analyse discretion in this way, pointing out that decision makers have to apply standards to the interpretation of facts. These distinctions may seem very academic, but they are important in administrative law for drawing distinctions between decisions that are within an official's powers and ones that are not, and therefore for determining whether intervention by an appeal body is appropriate.

Issues about conflicting facts arise where evidence is ambiguous, or where individuals present different versions of the same events. One of the surprising aspects of some of the less sophisticated attacks on dis- cretionary administration by lawyers is that, while in practising their own profession they talk of facts and law and of proof and disproof, they very often require judges and juries to decide between conflicting evi- dence. The proper distinction to make here is not between the precision

of judicial decision making and the imprecision of much administration, but between the extent to which procedural safeguards for the individual, or due process, exist in each situation. Here again Jowell's work is helpful since he distinguishes between two approaches to the control of discretion: 'legalisation', the 'process of subjecting official decisions to predetermined rules' and thus, of course, the elimination of discretion; and 'judicialisa- tion', involving 'submitting official decisions to adjudicative procedures' (1973, p. 178). In that sense the issue is then about where ultimate decision making power, or discretion, is to reside when there is conflict over official decisions.

Rules and discretion in organisational sociology

So all work, however closely controlled and supervised, involves some degree of discretion. Wherever work is delegated, the person who delegates it loses a certain amount of control. To approach the concept in this way is, of course, to examine it from the perspective of superordinate authority. Viewed the other way round, the equivalent phenomenon is rules which apparently guarantee benefits or services but nevertheless have to be interpreted by intermediaries. It is in the twin contexts of task complexity and the del- egation of responsibility that the phenomenon of discretion becomes of salient importance. In complex organisational situations gaps readily emerge between intentions and outcomes. People running one-person businesses exercise discretion, of course, but the concern here is with it as a relational phenomenon. The problems about discretion are perceived, not surprisingly, as arising when one person's discretionary freedom may subvert the inten- tions of another.

Running through much organisation theory, and in particular through the work of those writers who are seeking to help those they see as in control of organisations to determine the right way to approach the delegation of tasks, is therefore a concern about the balance between rules and discre- tion, even when different words are used. Hence Simon, in his classic work Administrative Behaviour (1957), emphasises the importance of the various premises upon which decisions are based. Rule making and control within organisations is concerned with the specification of premises for subordi- nates. Simon argues:

> The behaviour of a rational person can be controlled, therefore, if the value and factual premises upon which he bases his decisions are specified for him. This control can be complete or partial – all premises can be specified, or some can be left to his discretion. Influence, then, is exercised through control over the premises of decision. (Simon, 1957, p. 223)

One reservation must be made about this statement (in addition to objecting to its gendered nature), namely that, as suggested above, the notion of total control in an organisational context is unrealistic. Otherwise this is a valuable statement of the place of discretion in a hierarchical relationship. Simon goes on to suggest that what occurs within an organisational system is that a series of areas of discretion are created in which individuals have freedom to interpret their tasks within general frameworks provided by their superiors. He quotes a military example relevant to the 'modern battlefield' (see Box 12.5), recognising the prevalence of discretion even in the most hierarchical and authoritarian of organisations. Dunsire (1978a) has seized upon the interesting reference to the 'province' of the subordinate in this context. He portrays organisational activities as involving programmes within programmes'. In a hierarchy subordinate programmes are dependent upon superior ones, but they may involve very different kinds of activities. Dunsire elaborates an example of a railway closure to show that while activities such as the rerouting of trains, the selling of railway property and, at the very end of the chain, the removal of ballast from abandoned tracks are necessarily dependent upon superior decisions about the closure of the line, the way they are carried out is not predetermined by the decisions taken at the top of the hierarchy. He argues that decisions at the higher level are of high generality, those at the bottom of high specificity. This does not mean,

Box 12.5	Simon's example of the rules/discretion relationship on a battlefield

Simon writes:

how does the authority of the commander extend to the soldiers in the ranks? How does he limit and guide their behaviour? He does this by specifying the general mission and objective of each unit on the next level below, and by determining such elements of time and place as will assure a proper coordination among units. The colonel assigns to each battalion in his regiment its task; the major, to each company in his battalion; the captain, to each platoon in his company. Beyond this, the officer does not ordinarily go. The internal arrangements of Army Field Services Regulations specify that 'an order should not trespass upon the province of a subordinate. It should contain everything beyond the independent authority of the subordinate, but nothing more'. (Simon, 1957, p. 224)

This example shows how, in what is regarded as the most hierarchical of organisations, discretion is inevitable. The paradox here arises because in a war situation personnel at the lowest level may have to respond immediately to the unexpected. Hierarchical discipline is designed to try to make that response predictable, or at least compatible with strategy determined at higher levels. A similar point may be made about policing.

'that a worker at a high specificity level necessarily has a smaller ‌scretion (in any of its senses) than a worker at a high generality ‌ire, 1978a, p. 221). This approach helps us to make sense of the ‌ concept of discretion in relation to professional hierarchies such as ‌on or medicine. The organisational or planning activities at the top of ‌ hierarchies set contexts for, but do not necessarily predetermine, deci-‌on making at field level, where very different tasks are performed and very different problems have to be solved.

All the writers who have been concerned with the complexity of organ-isations have acknowledged that there are related problems of control, coordination and communication between these different 'provinces' and linking these programmes within programmes (see Dunsire, 1978b). Attention has been drawn to the interdependence involved, and therefore to the fact that in a hierarchical situation superiors may be dependent upon subordinates. This is taken further by Gouldner (1954), who shows that the top-down pres-entation of hierarchical relationships with superiors promulgating rules to restrict the discretion of subordinates may sometimes be turned on its head. He draws attention to the development of rules which limit the discretionary freedom of superiors in the interests of their subordinates. The classical dis-cussion of this occurs in Gouldner's *Patterns of Industrial Bureaucracy* (1954), in which he shows the part that workers may play in securing rules to protect their interests. Overall his emphasis is upon the appeal to rules, by either party, in a situation in which a previously obtained relationship breaks down:

> Efforts are made to install new bureaucratic rules, or enforce old ones, when people in a given social position (i.e. management or workers) per-ceive those in a reciprocal position (i.e. workers or management) as failing to perform their role obligations. (Gouldner, 1954, p. 232)

Gouldner explores the many functions of rules in situations of social con-flict. He draws our attention, therefore, to the extent to which rules and discretion must be studied in the context of relationships in which the parties on either side seek to influence the freedom of movement of the other.

It is important to move away from the older emphasis in organisation theory which saw the rules/discretion relationship from the perspective of superiors concerned to limit discretion, as far as acceptable, in the interests of rational management. Instead, attention should be directed towards the extent to which both rules and discretion are manipulated and bargained over within hierarchies. Fox (1974), coming to the examination of this issue from a concern with industrial relations, interestingly relates rule imposi-tion to low-trust relationships. He picks up the top-down concern with detailed prescription and shows how this creates or reinforces low-trust relations:

> The role occupant perceives superordinates as behaving as if they believe he cannot be trusted, of his own volition, to deliver a work performance

which fully accords with the goals they wish to see pursued or the values they wish to see observed. (Fox, 1974, p. 26)

A vicious circle may be expected to ensue. The subordinate who perceives that he or she is not trusted feels little commitment to the effective perform-ance of work. This particularly affects the way the remaining discretionary parts of the work are carried out. The superior's response is to try to tighten control and further reduce the discretionary elements. The irreduc-ible minimum of discretion that is left leaves the subordinate with some weapons against the superior: the prescribed task is performed in a rigid, unimaginative and slow way.

This means that some rather similar phenomena may emerge by different routes. One may be defined as discretion, the other as rule breaking. The former emerges from recognition of the power and status of implementers (this word is used deliberately instead of subordinates). This is the high-trust situation described by Fox, and applies to much professional discretion within public administration. The latter is seized by low-level staff regarded as subordinates rather than implementers who, in practice, superiors fail to control. One is legitimised, the other is regarded – by the dominant ele-ments in the hierarchy – as illegitimate. To the member of the public on the receiving end they may be indistinguishable.

Much of the organisation theory explored here indicates that discre-tion and rule breaking cannot be simply contrasted. Actors may be faced with situations in which rules conflict, in which rules are ambiguous, or in which so many rules are imposed that effective action becomes impossible. In these situations choices are made between rules, or about how they are to be respected. Hence occasions arise in which subordinates can paralyse the organisation by working to rule, by obsessively following rules which under normal operating conditions everyone would tacitly recognise as only to be applied in unusual situations.

The author has discussed elsewhere (Hill, 1969) the way in which social security officials may operate when they suspect fraud. They are able to operate rules and procedures in a heavy-handed way to ensure that claims are fully investigated and claimants are made fully aware of the consequences of detection. If, however, they operate like this in more normal situations they will severely slow down the processing of claims and deter genuine applicants.

Alternatively, Blau (1955) shows how front-line bureaucrats disregard rules to enable them to relate more effectively to their peers and to the members of the public with whom they deal. In this sense rule bending or breaking operates as a substitute for discretion to generate a responsive organisation. However, there are issues here about the legitimacy of such adaptation, and the extent to which it may be used to favour some clients but not others. The discussion of Merton's (1957) portrayal (in Chapter 13) of 'over-conforming' bureaucrats who create problems because they apply the letter and not the spirit of the law, and of Lipsky's (1980) work on 'street-level bureaucracy', returns to this theme.

This excursion into the treatment of discretion in organisation theory suggests, therefore, that there are a number of reasons why discretion is likely to be an important phenomenon in bureaucracies. At times, confusion arises between notions of organisation flexibility in which discretion, particularly professional discretion, is accepted as an inherent feature and notions of conflict between formal requirements and informal behaviour (or more explicitly between rule making or enforcement and rule breaking). This confusion may be a reflection of the fact that in reality these phenomena cannot be easily separated. Organisations are not simply fixed entities within which informal behaviour may develop. They are in a permanent state of change with both new rules and new forms of rule breaking occurring as conflicting interests interact. Streeck and Thelen, whose perspective on the need to appreciate the complexity of institutional arrangements was discussed earlier (see Chapter 4), stress:

- 'the meaning of a rule is never self-evident and always subject to and in need of interpretation' (2005, p. 14);
- rule makers have cognitive limits;
- 'rule takers do not just implement the rules . . . but also try to revise them in the process of implementation, making use of their inherent openness and under-definition (ibid., p. 15);
- 'there are limits to the extent to which socially authorized agencies . . . can prevent unintentional or subversive deviation from . . . rules' (ibid.).

The granting of discretion may be a conscious ingredient of the formal design at one extreme, or a reluctant concession to organisational realities at the other. Conversely, new limitations upon discretion may stem from attempts by superiors to assert their hierarchical rights, or from aspirations of subordinates to introduce greater certainty for their activities. In this last sense, therefore, there is no simple equation between rule making and hierarchical control or between the preservation of discretion and subordinate freedom.

This final point needs emphasising further. Baumgartner (1992) criticises the legal concern that discretionary behaviour is unpredictable and argues that 'social laws' make it predictable. Her essay analyses the impact of a variety of sociological features of official encounters upon their outcomes reminding us that 'rules' in a sociological sense may be as readily 'made' in the course of official behaviour as promulgated by policy makers and managers. These 'rules', moreover, may have characteristics which give them a power that is difficult to resist. Feldman, in an essay in the same volume as Baumgartner's, offers a clever analogy:

> The difference between the formal limits and the social context limits to discretion can be likened to the difference between a wall and a rushing stream of water. The wall is firm, clearly delineated, and it hurts when you run into it. The rushing stream . . . moves; its speed varies; it is more

powerful in the middle than on the edges. It does not always hurt to go into the stream; indeed it may at times be pleasurable. The wall, however, can be assaulted and broken down while the stream rushes on creating a path for itself against the mightiest resistance. (Feldman, 1992, p. 183)

Summing up on rules and discretion

In examining rules and discretion, several issues need to be given attention. First, the complex interaction of the two concepts must be emphasised. Issues about rigid rule frameworks are implicitly issues about the absence of discretion. Concerns about excessive discretion are concerns about the limitations of the rule systems within which it is embedded. Hardly ever is there either absolute rule dominance or unstructured discretion.

Second, therefore, as stressed throughout this book, policy (in which rules and discretion are mixed together) must be seen in a wider social and political context, which is likely to affect the way discretion manifests itself and the attempts that are made to control it. Discretion may arise from ambiguity, sometimes deliberate, in public policy.

Third, while acknowledging political reasons why discretionary power may be conferred, the discussion has not disregarded the extent to which this phenomenon arises as a consequence of inherent limits to control. As Protas (1979) argues:

A general rule in the analysis of power is that an actor with low compliance observability is relatively autonomous. If it is difficult or costly to determine how an actor behaves and the actor knows this, then he is under less compulsion to comply. (ibid., p. 298)

Fourth, as this last observation reminds us, there is a need to analyse discretion as a facet of organisational life in a complex relationship to rule breaking. It is important to relate discretion to issues about organisational complexity, reward systems, motivation and morale.

Fifth, we should not disregard the extent to which the concern about discretion is a normative one. Under what circumstances may discretion be said to be a problem, and for whom? To what extent does the balance established between discretion and rules distribute differential advantages and disadvantages to the parties involved, and particularly to the members of the public affected by the policy?

Finally, in noting that discretion has been regarded as a problem, we should recognise that a variety of strategies of organisational control have developed to try to deal with it. The traditional approach has been to try to control it through tighter rules and procedures. More recently, identification of the ubiquitous nature of the phenomenon has led rather to attempts to structure it.

CONCLUSIONS

This chapter started by examining the way in which Max Weber's theory of bureaucracy has been seen as defining a model for organisational control that has been widely adopted. We are again, as in so much of any discussion of the policy process, in a literature where issues about what does happen and issues about what should happen are often confused. The Weberian model is seen both as a way of conveying the essential character of hierarchical admin-istration and as an ideal widely espoused by the architects of administrative systems. Organisational sociologists came along somewhat later to suggest that the reality of organisational life may be rather different. It was also the case that many of them indicated that they thought it should be rather dif-ferent.

Nevertheless, the Weberian model was attractive to those who wanted to stress that public servants should administer impartially policies devised by politicians. In taking that view they were supported by a legal view of the desirability of rule following and a hostility to administrative discretion. The discussion of this then indicates a fascinating parallel literature to both the implementation debate and evaluation of the bureaucratic model, seeing the issues about the relationship between rules and discretion to be very complex and some forms of discretion as inevitable.