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How to Implement Policy:
The Use of Judgement in the Exercise of Administrative Discretion

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Abstract

Many civil servants sit at their desk and make decisions about the correspondence that they receive. When they do this they are responding to situations that are governed by rules. The rules may be statutes or they may be informal guidelines. We have been concerned to teach officials how to better apply rules, having regard to the morality and politics.

Over 300 case studies of decision-making in the New Zealand public service were examined to produce a model of decision-making that would be practical and effective. Trials were conducted to find the best means to teach the complex cognitive skills of decision-making to officials. This paper reports on the development project that produced the Executive Decision-Making Skills Course that the Open Polytechnic of New Zealand offers.

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INTRODUCTION

Most public servants implement policy. They answer correspondence following the directions that have been set down. Yet, few appear conscious of the nature or logic of the processes that are involved. We delved into the "nature and the logic" of such decisions, examined hundreds of them, and devised a training course to improve decision-making. We drew upon earlier New Zealand research on the same topic1.

We direct our message at public servants - both central and local government officials. Others who answer correspondence, for example, managers in commercial organisations, charities, and non-government agencies, may also be interested. Consequently, in this paper, we:

1 Consider policy implementation. To do this we (a) distinguish between policy development and policy implementation, (b) define the decisions that are the subject of our research, and the concern of our training courses, (c) recognise the logical structure and form of policy implementation decisions, (d) consider the concept of discretion and (e) identify the nature and role of judgement.

2 Describe a model of decision-making that is for use when officials today implement policy. Our 1998-2000 research has been to ensure the model is appropriate for them.

3 Place our research into a context by considering the teaching of decision-making, and ethics, in management education. Describe a staff-training course that teaches the skills one needs to implement policy, including the development and validation of the course.

POLICY IMPLEMENTATION

Policy development and executive decisions

"In government and business a distinction is often drawn between policy making and executive decisions; the first being designed to give direction, coherence, and continuity to the courses of action for which the decision-making body is responsible; the second designed to give effect to the policies thus laid down" - Vickers[1].

Vickers identifies an important distinction, but he does not emphasise the most crucial point. What is the real difference between policy development and policy implementation?

Policy developers make rules, and those who implement policy use rules. The place of rules is the key.

Policy development results in the signing-off of prescriptive statements that are rules. These statements may be contained in legislation, council by-laws, or company policy. They may be vague indications of good intent perhaps contained in very general principles, or they may be very specific directives that allow for little divergent interpretation.

In New Zealand, we have been conscious of the need to separate rule making from the application of rules[2]. The separation of powers has always been an idea in our constitution: we have a parliament to make the laws and an executive to run the country in accordance with those rules. In local government, those who decide on the application of the rules in resource consent hearings, and those who advise on such decisions, are a different group of people from those who developed the council's planning documents (the book of rules).

Of course, the distinction is not so clear in practice, but the theory is still relevant. It shows two different cognitive actions are involved in administration.

In large government administrative departments, those who administer the rules are generally not those who developed the policy. Thus, we have case officers, examiners, inspectors, social workers, and counter staff. Policy advisors work to produce the policy, whilst their colleagues greet the public. What stands between the policy person and the others is a box full of rules.

The concept of "regulation" also demonstrates the central role of rules. A system of regulation must produce rules and also administer or enforce the rules.

Most public sector employees implement policy. Fewer produce policy. This ratio of personnel also applies in many large commercial enterprises (banks, insurance companies, and some state owned enterprises, for example).

It seems to us, that much is provided to train those who produce policy, but there is little guidance for those who implement that policy, particularly if you exclude legal training. So how do people apply rules? Are they conscious of the process? Do they understand the logic of applying rules? Do they understand the limitations of rules?

The case notes from the New Zealand Ombudsman, and the Privacy Commissioner, frequently refer to a failure to adequately apply rules. Fewer people complain about policy development. It is the way the rules are applied to them, that is the concern of New Zealand citizens.

Whenever policy is implemented in state sector organisations, there is the possibility of judicial review and the possibility of complaints to the Ombudsman or the Privacy Commissioner. These risks are costly. Even when the decision proves to be adequate, it takes time and money to review cases and support those undertaking an independent review. If the decision proves to be inadequate the resulting expense and embarrassment can be substantial.

Equally, for those who suffer the poor decisions of organisations the costs are high. Investment in the decision-making skills must be a sensible investment if it is indeed possible to improve outcomes.

Which decisions?

The decisions we consider in our research, and in the training course we developed, are those that involve the application of one or more rules. For simplicity, we confine ourselves to decisions that are made as the result of a written statement that is typically a letter or memorandum that requires action. It is easier to study decisions when there is a good paper trail, although many, for example, police officers, address the same sorts of decisions rapidly and without the advantage of a paper record.

Discretion

Decision-makers exercise *discretion* when they make a decision in accordance with a rule and take into account the circumstances of a particular case.

The extent of the discretion that rules allow varies greatly. Policies are rules, and many are little more than statements of general intention, whilst others are so specific that they produce virtually automatic decisions. The first, require the exercise of considerable discretion and often a lower tier of managers write more detailed rules to produce greater consistency and meaning for front-line decision-makers.

The second kind, do not allow for much discretion. However, every rule does have an aspect of discretion because rules are recorded in words and ultimately those words reflect concepts and concepts are contestable. Rule makers try to close up the scope for discretion by providing stipulative definitions for key words, but they can never entirely succeed because of the nature of language.

One way to describe our interest in decision-making is to say we are interested in how discretion has been applied in particular decisions.

Logical structure of policy implementation decisions

What is the logic that applies when a decision is made in accordance with a rule? What is required if the decision itself is to be sound? Is it just a matter of opinion?

Rules are prescriptive statements. They direct us to a decision or a course of action. They can be manipulated to the form “you ought to…” Described in this way, rules are a moral statements or moral premises.

It will assist us to understand the nature of policy implementation if we can locate the academic discipline that deals with that form of decision-making.

Managers’ decisions when they implement policy impact on people and they are derived from moral premises. Decision-makers sometimes are not conscious of this situation, and believe that their decisions are “based on the facts”. The role of facts in decision-making is

entirely dependent on the ethical premises (or rules) that the decision-maker selects as being relevant[3].

The law is a set of ethical statements or prescriptions that guide conduct. When we make decisions in accordance with the law we are simply using the moral premises that are there. In many cases we take several moral premises into account when we make a decision. Some of these could come from the law, and others might be from policy documents or our own inclinations.

The academic discipline that considers this form of decision-making is ethics, it is not science and it is not technology. So it is to the discipline of ethics that we must look if we want to get greater insight into policy implementation. Later in the present paper, we provide more detail on what is logically required for this form of decision-making. This provides the logical structure of our model of decision-making.

Judgement

In both policy development and executive decision-making, Vickers saw judgement as having a critical role. He identified judgement as a "mental activity that may be exercised with greater or lesser skill"[4]. . Vickers then claims that he has not found the activity of judgement justified, or explained, by anything yet to be found in any psychological textbook.

To advance on Vickers' thinking we need to draw a distinction. Consider these two statements: (1) 'this judgement is sound' (2) 'her judgement is sound'. The first statement refers to the merits of a decision – the decision is supported by reasons, in accordance with the evidence, correctly applies the rules, uses the correct rules, is logical, and so on. 'Judgement' here means something like "justified conclusion". Our second statement may refer to no particular decision, but to the ability of an individual to process information in her head and arrive at a conclusion that has merit. The grounds for believing the decisions she makes have merit do not need to be examined for the expression to make sense..

In both the making of, and implementation of, policy we should first bebe concerned with judgement in the first sense. The decisions made must be separated from the individuals who make the decisions, and, by implication, separated from the path taken to arrive at the decisions. Hence, the merits of a judgement must be distinguished from the psychology and sociology of judgement.

Whilst Vickers identified judgment as a mental activity (our second sense), his book largely discusses judgment in our first sense.

In 1978, Herbert Simon was awarded a Nobel prize for his "pioneering research into the decision-making process in economic organization". Equally important in psychology, economics and management theory, he focussed more directly on decisions (policy implementation) than did Vickers and supported his view that the critical feature of decision-making was judgement. In he said:

“All behavior involves conscious or unconscious selection of particular actions out of all those which are physically possible to the actor and to those persons over which he exercises influence and authority. The term selection … refers simply to the fact that, if the individual follows one particular course of action, there are other courses of action that he thereby forgoes.” …

“Unfortunately, problems do not come to the administrator carefully wrapped in bundles with the value elements and the factual elements neatly sorted.”…

“It is here that judgement enters. In making administrative decisions it is continually necessary to choose factual premises whose truth or falsehood is not definitely known and cannot be determined with certainty with the information and time available for reaching the decision.”[5]

Decision-making process

Many accounts of decision-making advise that there are about 5 steps through which a decision-maker should proceed, for example:

1. Identify the decision needed
2. Gather relevant information
3. Develop criteria for making a good decision
4. Develop options
5. Choose the best option.

It is difficult to depart from a sequence such as this - it does not make logical sense to make the decision until you have decided what are the facts and the options. This is a part of the logic of the decision-making process. Importantly, it is not a part of the logic of the decision itself.

It is vital the reader understands the distinction between the process used to arrive at a decision and the qualities of the decision itself.

In our work we are concerned primarily with the qualities of decisions. We cannot be silent on the process by which one arrives at decisions, because we are teachng a practical skill and this entails a method. But, the methods used to arrive at decisions are well known, never present anyone with any difficulties and do not present many opportunities to advance the quality of decision—making[6].

When people make decisions, what takes place in their heads (the psychology of decision-making) and the nature of the interaction between the people involved (the “sociology” of decision-making) can be important but the model of decision-making we use is not concerned with these matters.

Qualities of decisions

It is important to understand that the psychology and sociology of decision-making may be separated from the objective justification of any decision. Understanding this separation is essential if we are to focus on the qualities of decisions. There will be many paths by which decision-makers may arrive at the same objective account of a decision. Some paths will be more efficient than others. Some may depend on creative insight; others will be more like a process of elimination by trial and error.

But what are of importance in the present course are the merits of decisions themselves. The model for decision-making deliberately ignores the psychology and sociology of decision-making. This is for two reasons. First, managers must justify their decisions in an objective manner. (A chief executive cannot justify a decision to a minister by reference to the idiosyncratic nature of the ministry officials!)

Second, before we can begin to analyse psychological and sociological approaches to decision-making we need to know what is the goal of these processes. Most courses on the processes of decision-making stumble because they do not have an adequate account of the objectives of decision-making.

Another way of stating the point above is to say we are concerned with defining what is *excellence in decision outcome and justification*, rather than the efficiency or economy of reaching decisions. It is outputs, not inputs, which count.

THE MODEL OF DECISION-MAKING

In this section, we describe the model. We begin with a description of the name, state the models definition, consider the structure of the model, and then its content. Finally, we make some points about the use of the model.[7]

Name

Our model of decision-making for policy implementation is called Administrative Discretionary Justice (ADJ).[8] Each word in the name of the model carries meaning[9].

"Administrative" because public or company administration is the context in which we work and the model is about the implementation of existing policy. "Discretionary" because neither legislation, nor ministerial or executive direction can make our decisions for us. There is scope to interpret rules and the decision-maker is obliged to make real judgements. "Justice" because we are concerned to do the right thing. The decision must be explicit about moral concepts used and we must treat people appropriately.

ADJ definition

The formal definition of Administrative Discretionary Justice is: the resolution of the legal, ethical and practical issues which arise in a situation where an official acting in a capacity which is, in the final analysis, defined and limited by government policy, legislation, or

organisational policy, makes a just decision which results in action, or inaction, which affects other persons.[10]

The ADJ model provides a systematic approach to decisions which are made by managers when they have a **relatively specific** situation to respond to, a **reasonable amount of time** to respond, and are ultimately governed in their response by **legislation, policy**, and/or **other rules**.

Model structure

We describe the structure of the model in two steps. First, there is the logical structure that derives mainly from what is entailed in making ethical decisions in the context of written rules.[11]. Second, there is the content that develops the basic structure and is very dependent on the circumstances in which particular decisions are made.

The logical structure of ADJ comprises of **components.** In order for a person to address an administrative decision adequately, the following components seem to be logically required (we state the names given to the components and a brief definition)

Conditions

The *Conditions* of ADJ are those criteria that must be satisfied if the model is to be applied. There are two main aspects: the authority to decide, and the need for a decision.

Facts

The *Facts* of ADJ are the circumstances, constraints, relevant personal information, and the likely consequences of particular decisions, which, when taken together, describe a particular case. Consideration of the veracity of facts and the absence of information falls within this Component.

Rules

The written rules, including precedents, which are relevant to, or "govern", a decision, together with the guidelines intended to preserve the integrity of the decision-making process, are the *Rules* of ADJ.

Morality

The *Morality* of ADJ requires the consideration of 2 issues: (1) the moral principles that are held by the organisation, or the decision-maker, to be potentially relevant to the decision being considered, and (2) the individuals or groups affected (together with an account of how they are affected) by a potential decision.

Options

Options are the possible rational alternative decisions, or courses of action, that suggest themselves when considering a particular set of circumstances.

Risks

The tasks within the *Risks* Component of ADJ are a consideration of those matters that may affect the implementation of the decision once it is made, and the development of practical proposals to assist with its implementation. The focus is on the risks that are inherent in the decision, but we must also be mindful of the opportunities presented.

Grouping of components

The components do have a relationship to each other that comes from their logic.[12] *Conditions* stand alone and it is the first component to be considered in a decision. *Conditions*, outlines the several criteria that must be satisfied if the model is to be applied. If you wish to know if a situation is one in which you can usefully apply the model, ask whether the *Conditions* are satisfied. The other components contribute to the making of the decision itself or to the development of an approach to its implementation.

The components *Facts* and *Rules* deal with factual matters of different kinds. They have this in common, but their differences are greater than their similarities.

The component *Morality* deals with ethics or ethical principles. More precisely, it deals with prescriptive statements that may be used to justify ethical decisions. Rules are but one example of prescriptive ethical statements. They are, if you like, formally written ethical statements. Accordingly, the components *Rules* and *Morality* are the same in their logical nature.

The component *Facts* relates to the circumstances that structure particular decisions. The facts lead us to select the moral principles or rules we will apply. They establish the relevance of principles. Accordingly, *Facts* have a particular relationship to *Rules* and *Morality*.

Options are logically very different from the other components. The options are courses of action or conclusions. There is always a sense in which an option is a moral statement because it is a prescription. However, it must be distinguished from the moral statements that are in the *Morality* component because these latter statements are built into the reasons in support of particular options.[13]

The component *Risks*, relates to possible events after the decision has been made, but it is never the less assessed at the time of the decision, along with everything else. However, as a component *Risks* stands alone. For in the assessment of risks we must again proceed by considering the complex of facts – rules – morality.[14]

Content

The content is the detail that is built upon the logical structure of moral decision-making. The content is derived directly from the issues brought to our development and training courses in case studies. The content for the model will be different from time-to-time and from place-to-place. It is dependent on the culture in which the decision-maker operates.[15]

The content has been placed in the model as questions that are classified in accordance with the components. It has been found that posing questions is the most practical way to use the model.

In all components there are questions relating to financial or economic matters that may be asked about a decision. To enable the systematic examination of economic matters apart from other matters, these questions are marked with an asterisk (*). It is not recommended that economic matters be divorced from other considerations in practical decision-making, but for the purpose of teaching the model it is sometimes desirable to do so.[16]

A model is a tool

The ADJ model is an intellectual tool. Like all tools it can be used inappropriately or abused. If we have the model in our kit of tools, and can produce it when appropriate, and use it to the extent of its capabilities, it will serve us well. One early task is to learn when the model is appropriate and information on that is incorporated into the model in the *Conditions* component.

It is possible to place too much reliance on a tool, or to let the use of the tool become the aim of the exercise. The model should not be allowed to take over and become an end in itself.

How the model improves judgement

Judgement is the cognitive ability to bring complex factors into consideration and to heed them to the appropriate extent when making decisions. The judgement of a decision-maker will improve as the decision-maker uses the model.

The reasons for this are that the model:

1 makes complex decisions more straight-forward by making explicit the full range of issues that must be considered

2 provides a systematic approach to the consideration of the decision (people adopt their own path through the model, we do not attempt to prescribe a path)

3 enables issues to be seen in their appropriate intellectual traditions. This means managers can be guided to areas of study that will advance their understanding of the components of decisions

4 provides a systematic means to test alternative hypotheses and thus to review the robustness of a decision

5 provides a base of ideas/words that people can share and thus facilitates the discussion of issues

The model does not miraculously give a person good judgement, but practice in its use can improve a manager's ability to reach conclusions that may be supported rationally[17]. Some managers would like a model that leads to decisions as if it were a computer program.

However, the decisions addressed by the model are at heart ethical decisions and there is no way that such decision can be made by an algorithm.

Increasing the confidence of managers in their own judgement minimizes their reluctance to take decisions and increases their willingness to accept responsibility.

The use of our model facilitates accountability. Privately, managers may have confidence in a decision, however it is quite a different matter to be able to set out all the aspects of that decision in front of someone else. The model provides a structure for conveying the details of a decision to another person.

Some managers use the work sheet based on model as a checklist of categories to be used to justify a decision. Some require that their staff use the worksheet as a reporting template.

4 TEACHING POLICY IMPLEMENTATION

Here we place our research into the context of management education, describe the development project undertaken for the Open Polytechnic of New Zealand in 1998/99, describe the earlier New Zealand work that was the base of the Open Polytechnic's project, and discuss some of the pedagogic considerations. However, before that – a brief summary of the staff training course as it is currently being presented.

Course structure

The course taught at present, consists of an initial half-day session, a task participant's complete in their own organisations, and a three-day workshop.

The objectives for the initial half-day session are:

"1 To understand the kind of decisions we consider in this course

2. To complete a case study of decision-making, and thus to:

i. Learn the format for case studies

ii. Provide the course director with information on participants' decision-making skills

3 Agree with other participants the cases to be covered

during the 3-day workshop"[18]

After the half-day, participants produce a case study of decision-making in their own organisation. It need not be something that personally them, but many participants select a case from their own experience.

The objectives for the three-day workshop are really the objectives for the course as a whole:

“Course participants will improve their judgement when they implement policy, by developing the cognitive skills of decision-making, including how to:

1. identify issues
2. apply rules
3. exercise discretion
4. use moral principles
5. attend to facts
6. evaluate risks
7. present decisions”[19]

What you cannot see in the above outline, is the model of decision-making. This is because the model is the vehicle used to achieve the above objectives. The course director teaches the model during the workshop.

Decision-making in management education

In management education there has been in the last decade a renewed emphasis on both ethics and decision-making. Concerns about the moral character of America’s leaders lead to private funding in this area. For example, the Harvard Business School in 1987 received a substantial gift to support school-based initiatives in ethics and leadership was made in 1987. The benefactor was concerned that graduates from America’s finest business and law schools were frequently involved in scandals.

At Harvard they faced the classical dilemma of moral education: should it be integrated across the curriculum, or should ethics be taught as a stand-alone subject. Harvard worked on both fronts.

After 6years Harvard Business School declared its simple conclusion: “Experience strongly suggest that the success of a program in leadership, ethics and corporate responsibility results in part from a sustained discussion of ethics by students and faculty”[20]. The only way to achieve success teaching an ethical base to business students was to have dedicated courses in ethics and to have ethics as an integrated part or other areas of curriculum. We agree with their conclusions, having talked at length to New Zealand officials. Many want to learn more about ethics and the best to do this is to address the discipline directly.[21]

Decision-making theories

The Harvard approach to decision-making, with its emphasis on the discipline of ethics, stands in great contrast to the decision-making models offered by theorists who do not base their work on either the nature of ethics or detailed empirical work on managers’ decision-making. As a consequence, the description of the decision-making process that they offer, inevitably, fails to assist practical managers. Consider, for example, the summary in a new

text *Critical Management* by Fulop and Linstead. They describe traditional, modern and post-modern decision-making techniques after making a distinction between programmed (policy implementation) and non-programmed (policy development) decisions. Some of what they say about the different types of decision-making is prescription ("manipulation of culture, myth and symbols to control outcomes" and some is method ("brainstorming") and some is fact "electronic data processing". In all of this, there is nothing to assist the manager who must answer letters of complaint from the public.

One of New Zealand's latest undergraduate textbooks on management, *Management in New Zealand*, by Inkson and Kolb, provides a seven-step problem solving process as follows:

1. identify the problem

2. determine criteria for decisions

3. develop alternatives

4. predict outcomes

5. choose from alternatives

6. implement the chosen alternative

7. assess the outcomes

The idea is to work sequentially through these steps, which enable a rational solution to be achieved. This is a "rational" model often given in student texts. For example, the American text Management by Bartol and Martin teaches a similar process.

Such authors tend to see decision-making as being about process. They do not focus on the qualities of the decisions.

Another approach widely encouraged in didactic literature is "creative decision-making", which may include convergent thinking, divergent thinking, heuristics, incremental decision-making, satisficing, and a range of less "rational" strategies. Again, these are all about process with little, if anything, on what is to be achieved.

Research project

The aim of the Open Polytechnic's project was to develop a course in decision-making skills that would complement existing courses in the Polytechnic's Executive Programme. To do this we examined earlier research on decision-making skills, updated an existing course and conducted two trial courses.

A 1984 project on the same topic, funded by the State Services Commission, was the base of the Open Polytechnic's work. The Commission's aim was to improve the decisions of senior public servants. The 1984 project was unusual because it began with a rigorous attempt to define the logical (structural) elements of such decisions. That is, the focus was on the decisions themselves from the start. The structure or form of the decisions was addressed

using the techniques of conceptual analysis and in particular the comprehensive sketch of what a moral decision entails that is given by Wilson.[22] The key ethical concepts were derived from Davis and Rawles.[23]

Moral decision-making is a cognitive skill. It is a practical ability or technique that may be acquired by insight and training. Like all skills, its successful demonstration is going to be dependent on an understanding of what is involved in success. Consequently, we must be able to develop a sense of what is a success when a decision is made. In this context, something can be said about their being a "right" answer.[24] At the risk of repeating ourselves, the essential point here is that the "right" answer is dependent entirely on the circumstances of the decision and in no way related to the path to the decision.

Pedagogy

The model itself suggests an approach to teaching. As was stated in 1984:"pedagogically, 3 approaches to the development of decision-making suggest themselves. General Principles and the Conditions (together with their Presuppositions) require conceptual work that is probably best approached through academic forums. Second, Formal Rules, the role of facts, Institutional Constraints and Limitations are elements that are probably best taught through formal case studies and apprenticeship. These may be related directly to the work of the official. …. And lastly, the psychology of decision taking by individuals and groups should be addressed, probably most effectively in formal courses of study."[25]

When teaching experienced, senior managers the course director should respect their experience. This experience is in fact a valuable resource and the teaching/learning strategy we use builds upon that experience. Thus, we recommend that the model of decision-making be taught incrementally building upon the specific points made by participants in the course as they consider case studies. After a while, the course participants reach a point where they want an overview of the model, and the course director provides this overview, often through a mini-lecture.

Another characteristic of practical adult learners is that they want to see the relevance of the course to their business. The simplest way to achieve this is to use, for illustration, decisions that were made in the participants' businesses. Readily perceived relevance is one important reason why participants bring case studies to courses.

The requirement of a case study has forced us to adopt a structure that involves and initial half-day, and all the extra costs that this entails. There seems to be no satisfactory way to avoid the half-day. Participants need the experience of working on a case study before they construct their own case study. Even with this experience it is important that the course director is very explicit about how a case study is to be structured. Equally, the course director needs to consider carefully the nature of the case studies participants will present in the workshop and ensure that these will meet the needs of all the participants. This is best achieved through a discussion involving everyone.

The half-day also assists with the group dynamics and motivation. Whilst we regard this as helpful, it is not an essential objective.

A further characteristic of adult learners is that they dislike dogmatism. The course allows participants to control their own learning to the maximum extent possible, but subject to the old-fashioned notion that the course director knows something useful that must be conveyed to the participants. Consequently, participants to set their own hours of work and can develop the model of decision-making as they see fit. Some participants produce their own version of the model, usually by highlighting those sections that are of most relevance to their particular work circumstances. Never the less, the course is directed, not facilitated, and teaching and coaching are important. The most common teaching technique is the Socratic dialog.[26]

The context bound (content) part of the model was discussed earlier in the present paper. The case studies brought have a role in the evolution of the model. As each course proceeds aspects of the model are brought into focus by the decisions being considered. This enables the course director to check the model for relevance and clarity. Few changes are suggested these days, but earlier when this approach to decision-making was being developed considerable alterations were made to the model as the result of particular case studies.

Some participants expect a course on decision-making to provide techniques for individual or group decision-making. They expect brainstorming and creativity. However, devices to generate ideas are the least of our worries. The major hurdle is contained in developing a sufficient understanding of what is a quality decision and we largely confine the course to this task.[27]

Finally, an important part of the course is development of participants' understanding of what morality is and how rules, morality and facts play together. Teaching this is not particularly difficult. We have found that direct methods of teaching, using examples that come naturally from the case studies, are best.[28]

ENDNOTES

[1] Geoffery Vickers. The Art of Judgement. London: Chapman Hall, 1996, page 25.

[2] The justification for this is infrequently discussed. It assumes a great deal about the mental abilities and the motivation of those involved.

[3] There are complexities here that need to be addressed.

[4] *Ibid*, page 13.

[5] Herbert Simon. Administrative Behaviour. New York: The Macmillan Company, 1953, page 13.

[6] In our experience, the only time that problems arise because of the process of decision-making is when someone tries to be "innovative" and becomes overly impressed with psychological or sociological theory.

[7] A full description of the model must also include information on its scope. That is, the kinds of decisions the model addresses. This is not included in this section, because it is outlined in the previous section.

[8] Strictly speaking, the model is version 2 of ADJ. The first version was developed in the Sate Services Commission's project in 1984 by Jim Marshall, Michael Peters and Robert Shaw.

[9] The 1984 project produced the name.

[10] Jim Marshall and Mike Peters crafted this definition in 1984.

[11] The definition of the context at a structural level is based on a view about the nature of moral judgement. We are in the tradition of ethical statements that are not value statements. That is, they are "ought to" prescriptions. See, for example, T.L.S Sprigge. "Definition of a moral judgement". Philosophy, pages. 301-322, 1964. The emphasis on written rules in part comes from our need to make the definition practical, rather than any necessary conceptual point.

[12] This is, of course, in no way related to how a decision-maker should proceed in practice.We are not prescribing an order in which the components should be applied.

[13] It is here that the psychological skill of judgement comes into play. For the skill entails the ability to weigh options and the reasons for options (essentially, moral/rule-fact complexes).

[14] In consideration of *Risks* you make deductions about what might occur and then you assess those. The assessment process is a rerun of the ADJ model. You must identify the moral principles that are relevant, you must identify any rules that are relevant and you

develop deductions based upon these and consistent with the particular facts that you believe pertain.

[15] It was concern about the content of the model that caused the Open Polytechnic to invest in the further development of the model before its use in courses. During the trials it was clear the content had changed in some minor regards. Essentially, matters of emphasis. However, some structural aspects of the model did eventually became of interest, and were ultimately changed.

[16] Participants in courses have often addressed this matter. In some decisions the financial considerations dominate the outcome but never-the-less New Zealand decision-makers at present wish to consider these alongside the principles that come from the components *Morality* and *Rules*. Some decision-making contexts are tightly tied to financial considerations. For example, the decisions of banks on whether or not to grant loans. It has been found that the course participants naturally challenge this tight perspective and want to bring in other factors. Here, is a field of study for those interested in the psychology of decision-making.

[17] Much research was done to establish this. See for example: Jim Marshall, Michael Peters and Robert Shaw, The Development and Trials of a Decision-Making Model: an Evaluation. Evaluation Review, Vol 10, No.1, February 1986, pages 5-27.

[18] Extract from the introductory booklet used in the Executive Decision-Making Skills Course.

[19] *Ibid.*

[20] Piper, Thomas R., Mary C. Gentile, Sharon Daloz Parks. Can ethics be taught? : perspectives, challenges, and approaches at Harvard Business School. Boston, Mass.: Harvard Business School, 1993. page 126.

[21] As a consequence of this, we have included in the training course a specific module to teach some of the basics of the academic discipline. This module is only used if there is some demand from the participants.

[22] Wilson, John. The Assessment of Morality. Windsor: NFER Publishing, 1973. Also, the general approach to conceptual definition as a precursor to empirical work, is set out in Wilson John. Philosophy and Educational Research. Windsor: NFER Publishing, 1972.

[23] Davis, Kenneth Culp. Discretionary justice: a preliminary enquiry. Baton Rouge: Louisiana State University, 1969. Rawles, John. A Theory of Justice. Oxford: Oxford University Press, 1972.

[24] See the earlier discussion in the present paper on the nature of the decisions. The idea of a “right” answer when real decisions are made is complex and is not developed in this paper. It is the subject of another paper that is being developed at the Open Polytechnic of New Zealand at present. The reader should feel some ambiguity regarding the idea of a “right”

answer, because the idea has yet to be adequately unpacked and it is an important consideration when teaching decision-making skills.

[25] Robert Shaw. “Administrative Discretionary Justice: Paper read at New Zealand Association for Research in Education’s Annual Conference, 1982”. An account of the pedagogic challenges, from the perspective of the evaluators of the 1984 project, can be found in: James Marshall & Michael Peters. “Evaluation and Education: Practical Problems and Theoretical Prospects”. New Zealand Journal of Educational Studies, Volume 21, No.1, pages 29-41, May 1986.

[26] Several factors enter into these matters, including the personality of the course director, the number and experience of the participants, and the content taught. We can only report on what we have found works best for us.

[27] See the earlier discussion on the nature of the decisions we consider.

[28] Participants most usually know very little about moral decision-making, yet this is the most common kind of decision-making we undertake in our business and personal lives. How can it be that the subject of ethics is not understood, even at a rudimentary level? The answer is found in the curriculum taught in New Zealand schools. We simply neglect the subject of ethics. The information conveyed in the decision-making skills course is commonly taught in introductory courses in philosophy or ethics, neither of which appear in the school curriculum.

Appendix: Course materials

Welcome

This course follows carefully planned procedures. They ensure that the course results in the maximum amount of learning by participants.

Exactly what you have to learn is built into the course and you might like to discuss this when you enter the 3-day workshop.

For the moment, just accept that decision-making is a **skill** that you can learn. Like all skills, its acquisition requires **practice**.

Another way of looking at this course is to say it "teaches judgement".

In the workshop, you will make about 25 major decisions and examine each in depth. You will be required to draw conclusions, and support your conclusions both in writing and orally.

To provide a structure for the examination of decisions the course director will introduce a model of decision-making. Course participants will be expected to develop this generic model into something tailored to their workplace. The course is intensive and designed to alter behaviour. It is not designed to be entertaining.

This course is not about the psychology or sociology of decision-making. It is about the quality or merit of decisions themselves.

Course structure

The course consists of:

1. An initial half-day session
   Insert date and time:

2. A three-day workshop
   Insert dates:
   The start and finish times to be decided by participants.

Venue for all sessions: Open Polytechnic Business Centre
152 The Terrace
Wellington
(opposite the James Cook Hotel).

Telephone: 04 495 1100

Morning and afternoon teas and lunch are provided. Dress is informal.

Course objectives

Course participants will improve their judgement when they implement policy, by developing the cognitive skills of decision-making, including how to:

1. identify issues
2. apply rules
3. exercise discretion
4. use moral principles
5. attend to facts
6. evaluate risks
7. present decisions

Today's objectives

The participants' objectives for the initial half-day workshop are:

1. To understand the **kind** of decisions we consider in this course
2. To complete a case study of decision-making, the “Customs Case" and thus:
   i. learn the format for case studies
   ii. provide the course director with information on participants' decision-making skills
3. To agree with other participants the cases to be covered in the 3-day workshop
4. To select a case study that you will present to the group in the 3-day workshop

Definitions

Case Study

A case study in the executive decision-making course is a complete, factual, **chronological record** of a series of decisions (usually three or four or five) that were taken by managers or officials in relation to the implementation of a policy.

Decision Point

A decision point is a point in **time** when a named person had to respond to the issues presented by an identified piece of paper or set of circumstances. A case study will have a series of decision points.

Selection of Case Studies

It is intended that your course deals with the issues that are of most relevance to you in your current position. This will be achieved if we select case studies that relate to the issues that you face. The selection of the cases studies very much governs the “flavour” of the course and the issues considered. No two courses are the same.

Courses can focus on a narrow range of topics. For example, a course might deal with

- personnel matters from several perspective's
- issues from a single sector (say health or local government), or
- issues related to a particular piece of legislation or a particular bylaw.

Alternatively, courses can cover a range of topics and thus give an overview of management issues. Such courses often include cases that deal with:

- personnel matters
- commercial conflicts
- political conflict
- council by-laws
- conflicts between head and regional offices
- ombudsman's reviews
- privacy issues and
- official information requests
- resource management conflicts

Most courses profit by having a wide range of decision makers, for example, chief executives, Ombudsmen, Privacy Commissioners, Ministers of the Crown, politicians, community representatives, line managers. Case studies that have the same decision maker for several decision points can be repetitive.

Participants will together decide on the case studies to be presented in their workshop. If later you find it difficult to produce the case study you have agreed to, please telephone your course director, Robert Shaw, on (04) 233 0252 or email him: robert.shaw@xtra.co.nz

Prepare Your Case Study

1. Give your case study a descriptive title.

2. Collect **all** the papers relevant to the decision trail.

   If telephone conversations, or unrecorded meetings, were involved, write a brief account of them. If statutes were important, or the organisations mission statement, or publicly available material, include what is relevant. Remember, people considering your case will not have direct experience in your organisation and the object is to provide them with a full account.

   The document that prompts the decision will probably be towards the end of the papers for a decision point, eg. a letter of complaint, chief executive's request, or investigation report.

3. Place the papers in strict chronological order.

4. Decide on the decision points.

   Sometimes a decision point will be found by finding the document that conveys the decision and looking back to its genesis.

5. Fill out a heading page for each of your decision points. On each heading page show:

   - The title of your study
   - The number of the decision point
   - Who was responsible for the decision. If it was taken by a committee, give the senior person responsible and indicate the presence of others.
   - The date of the decision
   - What prompted the decision

   Be specific eg. letter from Jones dated 21 July 1999, public pressure as result of incident of 21 July 1999 and Minister's concern expressed to the chief executive.

   - Background information

   (Do not fill in the sections: “time allowed for decision point”, response required.)

6. At the end of the material on each decision point, insert a paper "Do not turn this page until instructed".

When you are on your final decision point there may be a few papers that record the decision which you will wish to show participants - separate these papers with a "Do not turn this page until instructed".

7. Number every page once they are in strict chronological order and the heading pages and "Do not turn..." pages are correctly inserted for each decision point.

8. Photocopy 8 copies of your case study. It is not helpful to staple the pages. A stapler will be available at the course, should individual participants want their pages stapled.

9. Bring the photocopies with you to the course.

Confidentiality

The case studies provided in this course come from organisations that we all know and they identify real people. Consequently, participants are asked to keep all information that they acquire strictly confidential and to sign the following confidentiality agreement:

I _____ of _____

agree to keep all case study information acquired on the Executive Decision-Making Course strictly confidential and to return all documents used on the course to the course director.

_____

Signature

_____

Date

(Please take this page from your book, complete it, and the hand it to the course director.)

Decision Point 1

Case study title:

Decision point number: 1

Person responsible:

Date of decision:

What prompted the decision?

Background information:

Response required:

Decision Point 2

Case study title:

Decision point number: 2

Person responsible:

Date of decision:

What prompted the decision:

Background information:

Decision Point 3

Case study title:

Decision point number: 3

Person responsible:

Date of decision:

What prompted the decision?

Background information:

Decision Point 4

Case study title:

Decision point number: 4

Person responsible:

Date of decision:

What prompted the decision:

Background information:

Decision Point 5

Case study title:

Decision point number: 5

Person responsible:

Date of decision:

What prompted the decision:

Background information:

Decision Point

Case study title:

Decision point number:

Person responsible:

Date of decision:

What prompted the decision:

Background information: