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Abstract: This article explores discretion in welfare professional work. The aim is to analyse what room for discretionary decision-making that exist in case handling of debt relief at the Swedish Enforcement Authority (SEA). The analysis is guided by a conceptual distinction between structural and epistemic aspects of discretion, as well as between substantive and procedural aspects. The data comprises official and internal SEA documents, interviews with management and staff and field notes from observations. The analysis points to a change in the balance between standards and discretion in relation to the on-going formalization of case handling at the SEA, though not in the simplistic sense that discretion is diminished through formalization. When taking into account the different analytical aspects of discretion, it is concluded that discretion is narrowed only in some respects. There is still space for case officers in selecting and interpreting information and assessing the conditions regarding subject matter.

Keywords: new public management, street-level bureaucracy, welfare professionals, discretion, debt relief

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The possibility to be discharged of personal debts through debt relief/adjustment has been developed in Europe since the mid-1980s in response to increasing problems of overindebtedness. The arrangements for debt relief are continuously reformed to adjust for inaccessibility, unfairness in treatment, and ineffectiveness (Kilborn, 2009; Niemi, 2009). The Swedish legal framework for debt relief was introduced in 1994 and slightly reformed in 2006/7 and 2011 (Sandvall, 2011). During the same period, the authority responsible for handling debt relief, the Swedish Enforcement Authority (SEA), continuously tried to improve its performance in terms of both economic efficiency/productivity (i.e., reducing turnover times and processing more cases at a lower cost) and legal consistency (i.e., in producing just and uniform decisions) (Espersson, 2010). These re-organizations were made against the backdrop of the last decades of New Public Management (NPM), aiming to increase cost-efficiency through performance-based systems and management by objectives (e.g. Hood, 1994; Pollitt and Bouckaert, 2011).

Studies of the effects of such reforms at the micro level of "street-level bureaucracy" and on the practices of "welfare professionals" have been conducted in neighbouring areas such as social work, health care and education (e.g. Bejerot and Hasselbladh, 2011; Ellis, 2007; Evans, 2011; Evans and Harris, 2004; Ley and

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Seelmeyer, 2008; Torsteinsen, 2012; Spyridonidis and Calnan, 2011; Taylor and Kelly, 2006). With this study we want to bring insights from another, less researched, area to this field of research. We also want to contribute to the analytical approach of studying discretion in welfare professional work by analyzing different aspects of discretion in case handling.

Our aim is to explore and analyse what aspects of discretion exist in case handling of debt relief, and to discuss changes in the balance between standards and discretion in relation to the on-going formalization of case handling at the SEA. Central questions guiding the empirical analysis are: To what extent do laws, policies and case management systems give room for discretionary decision-making by case officers? How is discretion practiced in the assessment of subject matters and reasoning in case handling? The focus is in particular on the relation between the reorganizations of the SEA and two aspects of discretion – structural and epistemic (Molander and Grimen, 2010) – yet we also introduce a distinction between substantive and procedural discretion in order to sort out what aspects of discretion exist and how they have changed.

The article begins with a section introducing the concept and problems of discretion in relation to NPM trends in welfare professional work, followed by a section on methods. The empirical analyses that follow are divided into three sections: The first gives a brief description of the reforms in the Swedish system of debt relief. The second focuses on discretion in case handling in relation to laws, policies and case management systems at the SEA. The third section analyses aspects of discretion in the assessment of subject matters and reasoning in the concrete case handling.

Discretion in welfare professional work

Discretion is a central element of professional, legal and bureaucratic decision-making. The concept denotes that “some form of judgement or choice [can/must] be exercised by the decision-maker” (Hawkins, 1992, p.14). As discussed by Lipsky (1980) “street-level bureaucrats” may have a significant space for discretionary decision-making; so much that he found it relevant to claim that they are actually making up public policy daily at the micro level – within the limits of the available time, budget and rules and regulations. The positive side of this is that discretion allows for flexibility in matching solutions to clients. On the other hand, this discretionary power might lead to unequal treatment and favouritism, and in effect removes the final stage of policy implementation from democratic control (Lipsky, 1980; cf. Molander et al., 2012).

There has been much discussion regarding to what extent recent decades of NPM and managerialism, aiming to improve cost-efficiency through performance-based systems and objectives (Hall, 2012; Hood, 1994; Pollitt and Bouckaert, 2011), has curtailed the space for discretion for welfare professionals or not (Evans and Harris, 2004; Bejerot and Hasselbladh, 2011; Torsteinsen, 2012; Spyridonidis and Calnan, 2011; Taylor and Kelly, 2006). NPM and managerialism is often seen as leading to increasing formalization. With the accompanying development in ICT, the traditional street-level bureaucrat is said to be replaced by “screen-level

bureaucrats”, who process cases through formats designed into computer software (Bovens and Zouridis, 2002). The development of “lean” processes and case-management systems also implies formalization and standardization. This is said to place the discretionary power in the hands of centralized “system-level bureaucrats” – i.e. the organization’s managers, legal policy staff and IT expertise (cf. Aronsson et al., 2011; Hall, 2012; Ley and Seelmeyer, 2008). Lipsky claimed that the frontline staff often work in situations “too complicated to reduce to programmatic formats,” and when subjected to formalization they tend to “create capacities to act with discretion and hang on to discretionary capacities they have enjoyed in the past” (Lipsky, 1980, p. 15, 19). Others have criticized the assertion that NPM and managerialism simply have curtailed discretion, arguing that “by creating rules, organizations create discretion” (Evans and Harris, 2004, p. 883; cf. Evans, 2011), that new forms of “hybrid” professionalism emerges (Evetts, 2011; Spyridonidis and Calnan, 2011), or that not all aspects of discretion are affected (Tayor and Kelly, 2008; Spyridonidis and Calnan, 2011).

“Strong” forms of discretion where decisions are not bound by any standards or rules may exist within public service organisations, but we must also acknowledge the “weaker” forms of discretion that exist in relation to rules or standards (Hawkins, 1992, p. 14; Molander and Grimen, 2010, p. 170). These forms are in fact the most relevant ones, since welfare professionals are guided by law and organisational policies and standards. There is thus not really a choice between rules and discretion, but rather a question of what balance or mix between them is preferred (Schneider, 1992).

Rules and discretion may be said to supplement each other’s problematic or “weak” sides (Hawkins, 1992, pp. 35ff.; Schneider, 1992). The advantages of rules are that they give legitimacy and efficiency to decision-making by being public, reducing the influence of illegitimate considerations and personal opinion and making it possible to coordinate multiple decision-makers. Discretion on the other hand makes it possible to tailor the decision to the particular circumstances of the case, which is often an important aspect of decision-making in welfare state bureaucracies (Schneider, 1992; Lipsky, 1980). Discretion and rules are related to each other in two ways. First, we have a “structural” aspect of discretion which concerns the area for judgement left outside (or within) a set of rules or standards: “a restricted and protected space, where liberty to judge, decide, and act is provided” (Molander and Grimen, 2010, p. 169; cf. Hawkins 1992, p. 15). Second, there is an “epistemic” aspect of discretion which designates “a kind of reasoning that results in judgments about what to do under circumstances of indeterminacy” (Molander et al., 2012, p. 219). Even in situations where rules and standards for decision-making exist, these must be interpreted, and the information on which decisions are based must be selected and translated into decisions with the help of the codes at work in the institution (Hawkins, 1992; Smith, 2005, pp. 101ff.). The decision-maker has to make reasoned judgements and justify them in relation to given rules (Molander and Grimen, 2010; Lipsky, 1980).

We believe that the distinction between structural and epistemic aspects of discretion may be helpful in order to avoid an “all-or-nothing” approach on the effect of NPM on welfare professionals’ work (cf. Evans and Harris, 2004, p. 881). In addition, we find it useful to introduce yet another analytical distinction. Just as

there are “substantive” and “procedural” rules regulating legal decision-making, it seems fruitful to distinguish between substantive and procedural aspects of discretion. Substantive rules specify what conditions should be taken into consideration in a decision and what principles guide judgements on the subject matter of decisions, whereas procedural rules specify through what procedures cases are handled and decisions made (cf. Schneider, 1992, p. 86). “Substantive discretion” thus signifies to the space for judgments (structural) and the way of reasoning (epistemic) regarding the subject matter of cases – in our case this relates to judgments and reasoning regarding decisions to initiate or reject a case and decisions to grant debt relief or not. “Procedural discretion” signifies the space for judgments and reasoning regarding the work process of case handling – in our case this relates to decisions regarding how to process and investigate applications for debt relief: how to plan the work process, in what order different steps of the investigation are performed, what records to check and what additional information to collect.

Methods and material

This article is based on an in-depth qualitative case study of case handling at the SEA. Our approach was inspired by “institutional ethnography” with its focus on what people do, how they create meaning in what they do, and what role documents play within organisations (Campbell and Gregor, 2004). We focused particularly on studying “documents in action”, i.e. how they are interpreted and guide the work in the SEA’s routine activity of enacting legally binding decisions (cf. Smith, 2005, pp. 101ff.).

Four types of material were collected in 2010-11: 1) We performed 29 semi-structured interviews with management and staff from all five SEA locations where debt relief is handled (17 case officers, 3 lawyers, 7 central/local managers, 2 administrators). Each interview lasted about 1-2 hours and was transcribed verbatim and analysed thematically in ATLAS.ti. 2) We collected around 100 public and intra-organizational documents relating to the debt relief process (preparatory governmental inquiries, internal reports, policy documents, process maps, internet pages, forms etc.). 3) We performed ethnographic observation of meetings and day-to-day work at one of the five SEA locations amounting to a total of about three weeks of working time. These observations were recorded in written field notes. 4) We collected 60 case files, including applications, proposals and decisions on debt relief in addition to attached letters from applicants and notes from the case handling officers.

This article is mainly based on the interviews with SEA management and staff, more specifically we analysed the interview themes covering the work process, what rules the process is guided by, and what space for interpretation they leave to the case officers. In addition we used a selection of relevant documents such as laws, policies and routines as well as reports of organisational changes at the SEA to give a description of the rules and standards guiding case handling. We also used excerpts from the field notes to illustrate themes from the interviews. The research was approved by a Regional Ethical Review Board and we complied with the principles of informed consent, voluntary participation, and de-identification of

participants (cf. Larsson and Jacobsson, 2012). We also presented preliminary results for discussions at the SEA. All quotes have been translated to English by the authors.

Reforms in the system of debt relief

Case handling at the SEA is performed by professionals. Most are degreed in law, and others are social workers, economists or have a degree in the social sciences. These professionals are obliged to follow both legal regulations and SEA guidelines, but case handling also includes a certain amount of discretion since case officers have room for individual judgment and reasoning. Although this to some extent seems unavoidable, it has been noted as a problem within the SEA and has been an important background for the organizational reforms aiming to improve legal consistency in case handling (e.g. Kronofogden, 2009; RSV, 2000:11, p. 11f.).

A central aim of the reorganizations since the system of debt relief was created in 1994 has been to improve the case-handling process in order to decrease in-accessibility, unfairness in treatment, and ineffectiveness. At the level of policy and law, the main changes have been the reformations of the Debt Adjustment Act in 2007 and 2011. The main driver of the reformation efforts was the problem of in-accessibility; both reforms aimed at making it easier to be granted debt relief and to speed up the turnaround time in case handling – and were to some extent successful (SOU 2008:82; cf. Sandvall, 2011, p. 31).

At the organizational level of the SEA, a number of reforms have focused on increasing efficiency and legal uniformity since 1994. The first major change was when the previous 24 local enforcement authorities were reduced to 10 regional authorities in 1997, to streamline the administration. In 2002 this was followed by the establishment of common goals and team organizations at all regional authorities. The rationale was to reduce turnaround time and divergences in case handling (RSV, 2000). This aim was pushed further through the creation of one unified national authority in 2006 (SOU 2003:97, pp. 114f., cf. Espersson, 2010). Thereby, debt relief was organized as one national process of case handling, though performed at five different localities (Kronofogden, 2011).

At the level of case handling, the main reforms since the creation of the unified national SEA in 2006 were the following: In 2006 a lawyers network was established to increase the uniformity, efficiency, coordination and quality control of case handling in cooperation with a new expert group producing “governing signals” on delicate areas of assessment (Kronofogden, 2006). These laid the groundwork for a number of documents called Positions from the Process Owner, which concretize law by specifying how to assess the conditions regarding the subject matters. In addition, a new standardized case handling system was developed based on productivity measures, process maps and audits. This was further developed through a computer-based system (FENIX), piloted in 2010 and launched in late 2011 in order to control and audit case handling at all SEA locations (Kronofogden, 2011).

This brief overview seems to indicate that the reforms encompassed new standardization measures and formats that circumscribe the space for discretion in case handling. It is obvious that the SEA reorganizations have been influenced by the general impact of NPM ideas in the Swedish public sector, encompassing both management bureaucracy practices such as case management systems, productivity-oriented performance measures, and even some "lean" principles focusing on "customer value" and "doing more with less" (cf. Aronsson et al., 2011; Hall, 2012). The question is to what extent these changes still leave space for interpretation and judgement. In order to answer this, we will first analyse what spaces for discretion exist in relation to laws, policies and case management systems, and then turn to an analysis of discretion in the actual assessments of subject matters and reasoning in the case handling process.

Discretion in laws, policies and case management systems

The 2007 Debt Adjustment Act states two general conditions for debt relief to be granted. First, the debtor must be "qualifiedly insolvent", which implies that "The debtor is insolvent and so indebted that he or she cannot be assumed to have the ability to pay the debts within foreseeable time" (SFS 2006:548, 4§). The second condition is that "it is reasonable considering the debtor's personal and financial circumstances to grant him or her debt relief" (ibid.). Until 2011, four aspects were to be considered in assessments of reasonableness: "the age of the debts, the circumstances of their origin, the efforts of the debtor to fulfil his/her obligations and the manner in which the debtor has participated in the case handling ..." (ibid.). These aspects are assessed both separately and in an overall assessment – a new element introduced in the Act of 2007. The Act also specifies what nature the debts should have, what the application should contain, and rules for debt relief refusal, initiation, investigation and decision. However, according to the case officers, the Act is a short framework law that leaves a lot of space or "grey areas" for "balancing" judgement:

> Our esteemed parliament has chosen to give substantial space to the individual case officer's competence and discretion. There is extremely little to stand on in the legislation. The legal cases are – or individual debtors are – as different as night and day. And we are to attempt to fit all of them into some kind of template. That requires inventiveness (case officer, int. 13).

Two respondents stated that the law therefore resembles an "amoeba". In addition, case law, which is said to be one of the few fixed points to stick to, consists of relatively few cases and allows for numerous exceptions. This discretionary space left by the law is narrowed down by the Positions of the Process Owner. The Positions mainly concerns numerical details of how to determine matters such as the reservation amount for medical and travel expenses; the changes in income that bring about a reconsideration; and how long of a period of future incapacity a debtor must have to be classified as qualifiedly insolvent. The Positions thus reduce the structural space of discretion, yet there are obviously still

many factors to be approximated and weighed together – which indicates the existence of epistemic discretion even though these Positions specify the pre-requisites given by law. The opinions regarding how much discretion is left are somewhat diverging. Some case officers suggest that they circumscribe the space for judgement "too much," and see a tendency that the scope for interpretation is becoming "more and more narrow." Others state that there is still considerable room for interpretation: "There is always a lot of space, and there, it's always a matter of judgement" (case officer, int. 21).

The interviews indicate that a space for "assessment" is left untouched by the Positions, and there is obviously an epistemic side to this discretion in that one must balance the prerequisites in the overall assessment. Some state that this is the "thrill" of law – "that it is not always black and white" – and some even state that, in practice, this space for discretion remains very wide since the "flexibility" of the rules can be utilized: "You cannot deviate from the standards. The regulatory framework is so flexible that it's impossible to go outside the rules. However, sometimes I make re-interpretations where I deviate from my normal practice" (case officer, int. 13).

The most problematic aspect of this discretion is said to be that decisions may be influenced by the individual officer's interpretative style. How much you "dare to cut loose" depends on age and experience, and decisions could then be at risk of being "heavily influenced by the people we are, what we worked with in the past, and our personal experiences" (case officer, int. 3). A specific application could therefore "lead to different decisions by different officers" (case officer, int. 2).

Some of the interviewees emphasized that there is no reason for case officers to "slant" a case in a particular direction. Others have little reservation about doing so, when it is done to the benefit of the debtor:

> Some things one figures: "Well it's not all that important that it's accurate", like, but you deviate a bit and so, in general, so (laughter). […] cases where I can see that there are a lot of things speaking to the debtor's detriment, but I still initiate [...] it may be a case that another officer would reject (case officer, int. 3).

Although none of the respondents claimed to promote a hard-line approach, some believe that others might do so by looking for things that "delay" the decision to initiate, or by setting excessive moral requirements on the applicant. Supposedly, you can always "find something" in a case if you look for it.

The policy of generosity and productivity

The critique against a hardline approach, and the readiness by some officers to initiate cases although there may be reasons to reject, is in part made possible by the emphasis on the overall assessment, which has increased epistemic discretion since different prerequisites shall be weighed. In addition, there is an outspoken policy at the SEA encouraging officers to be "generous" and initiate as many cases as possible. The productivity goals have been increasing on a regular basis in recent years, and case officers are urged not to "over-investigate" before initiating

a case (e.g. Kronofogden, 2010, p. 25). The background of this is the political goals stating that the SEA should decrease the turnover time, increase productivity and make it easier to get debt relief. The resulting “softening” of assessments are by some seen as unproblematic:

> Now we have received instructions from the top that if we are unsure we should rather initiate than reject. And, if this is the line of the SEA one must, one must accept that when working at the SEA (case officer int. 9).

Other officers and SEA lawyers think that the internal policy that encourages “generosity” has politicized the assessment too much in relation to legislation and case law. They see the SEA’s interpretation of law as “extreme,” “radical” or that it “has been taken a little too far.” As one case officer put the problem with this tendency in the Positions:

> Sometimes I don’t think they go together with the laws, with the preparatory governmental inquiries, and with case law, from courts. [...] it’s a little hard as a lawyer, especially when you worked at the court, that, one sees that the authority has one line and will readily pursue it as hard as possible, and then you find that as soon as it is taken to court, which actually sits higher up in the hierarchy of authority, they say, “No, but this is wrong” (case officer, int. 9).

The management has a different view. One of the senior executives interviewed sees it as a long learning process. The possibility to assess the way they do things today has been there all along, but it took time to find the path to this more “generous” attitude:

> Before the law that was, which was passed in 2007, they said that: “You are too strict. You still reject […] you do not perform the overall assessment!” And the SEA was criticized for that […] And the lower courts, the District courts also received criticism. […] So I think we have been, it is we who have been a little too strict, the space has existed all along. [...] And I, for, I can imagine that you, you conceive it that way: that we have become more generous just for doing what we should have done all along! (manager, int. 19).

However, there is another argument for this movement towards a more generous approach as well. It is based on the conception that the SEA should drive the development of new standards if those in the Act are perceived as “too rigid and outdated” and thus need to be developed “at a faster rate than they are developed by the legislator” (case officer, int. 11). The SEA is then considered not only a consultative body in law-making, but also a source of legal development – that the SEA “anticipates” changes that the legislator has not yet had time to implement (lawyer, int. 12).

Process maps and computer software

The laws and policies discussed above govern the subject matters of case handling. In addition, there are organizational routines inscribed into process maps and software systems governing the process. A detailed process map was developed in 2006 to identify and control individual assessment elements and their order in the process. This map was also the basis for the case management software system FENIX, piloted in 2010 and implemented in 2011. Both systems contain several levels of abstraction. First there is an overall mapping of the process in a five-step flow, and then the sub-processes of each step are described. These are accompanied by descriptions of the rules governing each sub-step, and what choices, exceptions and critical factors that may occur. For example, the purpose of the task of Investigating is to “reconcile the information in the application with available databases, to identify any ambiguities and/or deficiencies, and to obtain supple-menting information from the debtor.” The customer requirements guiding this investigation are that the officer should make sure to have legal support for database access, complete a legally accurate and relevant database control, and make “a balanced assessment in a rigorous way.” Finally, there is yet another level of specification in the process map, which gives detailed descriptions and bullet points exactly what the officer should do during this stage, e.g. which registers to retrieve information from to check the information in the application and how to prepare the case file for the following stage.

All together this format guides the case officers through a strongly institutionalized routine. Thus, the process map and its sequel FENIX circumscribe the case officers’ structural and procedural discretion in two ways. First, it reduces the possibility to skip or simplify elements of case handling. Second, it reduces the case officers’ discretion in deciding the work process of case handling. This consequence is enhanced by the fact that the software systems make factors such as number of cases in process and turnaround times visible for all levels of management at all times. In the past, the different localities had to manually keep track of these things, and there was more space for planning left for teams and individuals.

Regarding the epistemic aspect of discretion, though, it is not certain that these formats do circumscribe that much. The process of interpreting, judging and justifying decisions must be applied also to these formats. Illustrations of this include the above mentioned specifications of the “investigation” step, stating that the officer should conduct a “relevant” database review and “a balanced assessment” in a “rigorous” way. However, what this means is not spelled out, but is left to individual judgement and collective practices.

Discretion in the assessment of subject matters

To understand how case officers practise “substantive” discretion, we need to dig deeper into how they handle the space left for interpretation (structural discretion), and how they practice discretion through interpretation of rules based on selection of information and reasoned arguments (epistemic discretion).

Overall, the case handling procedure is said to encompass quite some space for discretion since it is governed by “both law and judgement,” as one lawyer ex-

pressed it. Of the two conditions on subject matter stated in the Act, some case officers find that the assessment of qualified insolvency is mainly a question of numbers, which leaves little space for interpretation. Even so, there are discretionary aspects of this assessment. One lawyer stated that the officer’s experience plays a major role when forecasting a debtor’s future income: “It is nothing but experience ...” (lawyer, int. 16). It is even stated in the handbook for FENIX that “The calculation of insolvency is not an absolute truth, but only an approximation …” (Kronofogden, 2011, p. 23).

Regarding the subject matter of reasonableness, many of the case officers recognize the space for making judgements created by the emphasis on the overall assessment. This weighting of the different aspects of reasonableness was also stressed by the management:

> The main thing is that we should not let a single negative factor directly lead to rejection. That was in many ways the case previously […] Today we really try to it weigh it together. They may have lots of old debts, but happen to live in a slightly expensive place. Yes, but then you have to weigh those against each other (manager, int. 24).

There are varying degrees of discretion also in the different aspects to be considered when assessing reasonableness. As regards the age of the debts, it is rather a straightforward issue settled by the Positions. The other aspects of assessment of reasonableness – the circumstances of the origin of the debts, the efforts of the debtor to fulfil his/her obligations, and the manner in which the debtor has participated in the case handling – are much more open for selection of information, interpretation and reasoned argument.

Interpreting accounts and selecting from information

The debtors are required in the application form to account for their financial situation, for background details concerning education, employment and family, for when the debts arose, for why they failed to pay and for what they have done to resolve the situation and pay the debts. This information, supplemented by register retrievals, is the data that the case officers must select from, interpret and translate into legally binding decisions (cf. Larsson and Jacobsson, 2012). Since this is really the core of “epistemic discretion” at the SEA, we need to focus on how case officers perform such translation (cf. Smith, 2005, p. 186).

Even though some cases seem simple enough to “stick to the raw facts”, in others the case officer needs a “little story” from the debtor, not least to present the case in the proposal for debt relief. A problem is that many debtors write lengthy descriptions with “abundant information” that must be ignored. Short accounts seem to form a better basis for interpretation, and it may even work to translate an application without any information on the circumstances and background of the debt:

> Sometimes it’s enough with a single sentence, like: “I have had a business, and the company went bankrupt.” So, I do not need to know more really [...] it may

> be a bit more difficult to explain consumer debt. […] That is, we’re going to explain the indebtedness to the creditor, and that’s easier when there is something. But if there’s nothing, there’s nothing (laughs) and then, then you just have to write, like, yes “The debt was incurred between 2003 and 2005, and is therefore old enough” (case officer, int. 2).

Some case officers find it less important that the description of what happened is accurate. It is more about “sifting out what is of importance”. The baseline is the codes you are to translate the application into: they “have neither the time nor the role to dig into what is really correct and not” (case officer, int. 3). Others emphasize that also when assessing the debtor’s attempt to fulfil his/her obligations, they can do it without the debtor’s account:

> What they have done to sort out their financial situation? [...] I look at my records and see if they had a distraint. Distraint of wages. If they did and I see that they do not have this kind of really expensive apartment or a giant flashy car, but I see that they have had a distraint, then I usually write in the proposal that: “The person has had a distraint of wages, and then he is considered to have made the efforts required to pay off the debts.” It is really [...] a bit silly because it’s not the person himself who has chosen the distraint, so he has probably not made an active choice. But you still, you may see it that way (case officer, int. 9).

Equally as important as selecting and encoding information is the writing of and arguing in the proposal for debt relief, since it is submitted to both the debtor and the creditors. The latter must state whether they can accept debt relief, or if they have any objections. Such objections do not prevent the SEA from granting an applicant debt relief, but they may do so after a lawyer has reconsidered the decision. And even then it is of importance how the proposal was written, since it may be appealed:

> I usually argue quite a lot in my proposals. Justify very much. Actually I didn’t receive a single objection during the autumn [...] That is, as, as a lawyer and academic you have it in you, I think, this. I feel that, that if I word things right, and like weigh it right and show that I’ve been thinking about this and that. So, really, almost irrespective of what (laughs), what it is, you can make it like sound good (case officer, int. 3).

The applicant’s accounts are part of the information used in the writing. These accounts need to be interpreted, though. This is a matter of not placing too much emphasis on “how they express themselves,” but rather understanding the “meaning” of what they are telling. Still, not all case officers agree on the importance of writing, at least not in cases when you may stick to the facts. Some case officers embracing the politics of generosity even state that the rest of the application is of less importance if the debtor is qualifiedly insolvent: “There is no need for argumentation … If, objectively, they meet the prerequisites” (case officer, int. 5). Others stress that such an approach would be wrong, since the assessment of

insolvency is only half of the assessment, and that the assessment of reasonableness should weigh just as heavy.

Collective interpretative practices

The above analyses show that there are quite divergent views regarding both the (structural) space of discretion and how to make judgements (epistemic discretion). However, there are processes at the SEA that reinforce collective interpretative practices. First there is the team organization, with regular meetings at which difficult cases are discussed. There is also the older informal practice of exchanging advice with colleagues and “reconciling” their different views, which is still encouraged as a complement to the team meetings. It is e.g. stated in the FENIX handbook that “if you are unsure how to judge… you must immediately talk to a colleague or address the case at a team meeting” (Kronofogden, 2011, pp. 24f.). The problem with the informal discussions is that “depending on who you ask, you get different answers” (case officer, int. 7).

The SEA-lawyers responsible for the reconsideration of decisions play an important role in this juggling because their authority weighs a little heavier compared to other officers. They are resource persons for officers, but there is also the possibility to turn to other officers:

> I may be thinking like this: “Yes, I think this is an initiate, but I don’t know.” If then, I go and ask a colleague who I know initiates a lot, then I get the answer “Well, initiate this, just do”, and I go and ask another colleague who tends to reject a lot, then that person will say ”reject”. So it’s a bit silly really, to be able to choose in that way. Therefore it’s better to take it to the team, since then you have many more, but then you might not get an answer to your question, whether to initiate or reject (case officer, int. 9).

One thing we noticed in our observations of meetings is that there is the occasional voting on how a case should be judged, even though the decision is not collective but the case officer’s individual responsibility. This was confirmed in interviews, though with the reservation that you can still go against the outcome if you have a different opinion.

The discussions at team meetings we attended demonstrated in many ways how discretionary spaces are opened up because of particular details in the individual cases, and how they were dealt with by interpretation, reasoning and judgement. The following excerpt from a field note is an illustration of that. It is from a meeting at which three case officers discussed a debtor whose previous application had been rejected by both the SEA and the district court. The rejections were based on that the debtor was considered to be cohabiting with someone he claimed was his landlord. According to the initial draft from the responsible officer (Officer A), he would be qualifiedly insolvent if he was a tenant but not if he was cohabiting since then the assessment would be based on the couple’s joint economy. The central question was whether the applicant was a lodger or a cohabitant, and how to determine this. A number of solutions were tried, after the initial run through of the case:

> […] Officer C asks: if they have lived in the same apartment for ten years, don't they share food and purchases? No, says Officer A, one is a vegetarian and the other's not. Officer C points out that cohabitation is to live under marriage-like conditions, it is about physical contact, but adds: We cannot show that, he may actually be a tenant, they are surely friends.
>
> […] Officer B says that the agreement signed by both parties on not having a joint economy suggests that they are not cohabiting. B wonders whether the agreement was signed specifically for the SEA. Officer A sees that as somewhat farfetched, but says that in the previous trial the case officer injunctioned the applicant to provide information also on the partner's income.
>
> [….] Officer C brings the problem back to its core: how do you know if someone is cohabiting? "Do you ask about sexual intercourse?" Officer B says that it is usually enough if they have children together. Then Officer A points out that they are too old to have children living at home. Officer B asks if they share a television license or telephone subscription.
>
> […] They return to the key issue, now with a more sighing tone. Officer A wonders if they should dig further into the question of whether they have bought the apartment in order to live together. Officer B then suggests that you run a check on the national register to see where they have lived in the last 10-15 years, because if they have lived together then it's no accident or coincidence that he is staying with her in this apartment. "Smart!" says Officer A. Officer B adds that it is still technically possible that the applicant is only a tenant, but that the rejection would be stronger then. Officer A says that it may be time to consult the case officer of the previous rejection and see whether there is "more in this, too." With this, the issue seems to be dealt with. The meeting ends and everyone leaves the room (field note excerpt).

This meeting illustrates several of the things indicated above. First, it shows how a case may include details that are not clearly regulated by the Debt Adjustment Act or other governing documents, which opens a space for structural discretion. Second, this is an example of the practising of epistemic discretion, in that reasoning and translation work is needed to get a fit between information, registry data and the legal categories. Third, we see that collective negotiation may be part of judging in difficult cases, to jointly develop a way to tackle the problem. Fourth, this observation points to the importance of producing clear, reasoned arguments in proposals and decisions – or rather, it would have had we not excluded a part of the discussion where one "weakness" of the previous proposal was discussed, namely how the decision was written. The officer in charge of the case stated the problem as follows: "If you start to write too much, it indicates that you don't have much to say."

Conclusions

As described above, the reorganizations of the debt relief system in Sweden have aimed to improve efficiency and legal uniformity in case handling, and were strongly influenced by NPM trends aiming to produce better cost-efficiency

through performance-based systems and management by goals. From research and debate in other areas, one important issue is whether such an introduction of NPM and managerialism is diminishing the space for discretion for street-level bureaucrats and welfare professionals or not.

Some research emphasize a tendency towards formalization and standardization, which supported by the implementation of programmed formats and case-management systems, is curtailing the space for discretion in case handling (e.g. Bovens and Zouridis, 2002; cf. Aronsson et al., 2011; Ley and Seelmeyer, 2008; Torsteinsen, 2012). To some extent there is such a tendency in the case of the SEA and the debt relief process analysed in this article. Still, the actual development is more complex. The empirical analysis points to a change in the balance between standards and discretion in the case handling of debt relief, but not in the simplistic sense that discretion is diminished through formalization and standardization. At the level of case handling, much formalization has been accomplished, yet the narrowing down of discretionary space for judgement mainly concerns the “structural” and “procedural” aspects of discretion, and not necessarily the “epistemic” aspects. Also, some changes in the system for debt relief have actually opened up new possibilities for discretion. From the interviews and field notes, thus, there still seems to be quite some space for discretion for case officers in selecting and interpreting information and assessing the conditions regarding subject matter.

Let us summarize some of the main changes in the balance between standards and discretion. First, the structural aspect of discretion has been reduced through the introduction of new governing documents, such as the Positions from the Process Owner and the joint national legal expert networks guiding interpretations of “cloudy” aspects of assessment. These surely reduce the space for individual case officers to base decisions on their own judgement. On the other hand, the legal change of 2007, which introduced the overall assessment of reasonableness, in addition to the four aspects of reasonableness that are to be assessed individually, actually increased the space for balancing and weighing different factors. Second, the programmed case handling formats in the process map and the software programme FENIX have certainly reduced the procedural discretion for case officers to decide and plan their own work process. However, these formats do not really change that much regarding the epistemic aspect of discretion – that is, how to interpret rules and produce reasoned arguments. As shown, a central part of this aspect of discretion is related to the interpretation and selection of what is important and not in the information provided by applicants. Another part of epistemic discretion relates to the way case officers reason and argue in their writing of proposals and decisions. Third, the team organization, and other organizational changes aiming to increase uniformity in case handling, have clarified the hierarchy of consultation in difficult cases. However, there still exists a possibility to consult colleagues of one’s choice.

One of the implications of this study is that, to move beyond an “all-or-nothing” approach on the effect of NPM on the discretion of welfare professionals’ work – indicating that discretion is either untouched or radically curtailed (cf. Evans and Harris, 2004, p. 881) – we need to approach the problem with more varied analytical conceptualization of discretion, and also take notice of what happens on

different levels of the system of rules, policies, formats and practices. In order to give a nuanced picture, there is a need to unpack the broad concept of discretion to develop more precise analytical instruments (cf. Taylor and Kelly, 2006). In this paper we used the distinction between “structural” and “epistemic” discretion to distinguish spaces of case handling that are unregulated – and thus possible for case officers to decide on from situation to situation – from the interpretative space and reasoned argument needed to apply given rules in a concrete situation (Molander and Grimen, 2010). In addition, we found it reasonable to introduce a distinction between “procedural” and “substantive” discretion in order to analytically separate the space to decide upon the work process of case handling from the substantive aspects of discretion that concern the subject matters of decisions. By doing so, we believe we have shown that one cannot stop at only distinguishing between “strong” forms of discretion, where decisions are not bound by any standards or rules, and “weak” forms of discretion, which exist in relation to rules or standards (Hawkins, 1992, p. 14). We also need to explore the different aspects and dimension of such weak forms to better understand how discretion is practised in welfare professional work.

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