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Introduction: regulating public ethics in the United Kingdom

The scope of the book

A major element of political life in the United Kingdom in the last twenty years has been the growing focus on integrity issues. Confidence in the probity of a country's governing arrangements and personnel is a vital part of a healthy democracy and for the most part the British political system has been seen as relatively free from corruption. Yet since the so-called 'cash-for-questions' affair erupted over John Major's government in the early 1990s a number of question marks have appeared over the traditional assumptions about the ethics prevailing in the public sector. The problem of how to sustain high standards in British public life has become a fixture of the political agenda, prompting a persistent and very wide-ranging debate involving political elites, the media and the public.

Concern about ethics and propriety has also had a profound effect on the structures of government, bringing institutional innovations into many areas of politics and administration. Much effort has gone into sharpening the values which shape public life. New legislation has been aimed at clarifying and promoting those values, and a complex new framework of ethics regulators now defines standards and monitors conduct.

However, the ethics machinery has often been controversial, and has not always prevented recurrent bouts of misconduct and impropriety. Some of these episodes, like the 2009 MPs' expenses scandal, have generated extensive media coverage with continuing consequences both for Westminster and for the public's evaluation of its politicians.[1] Others, though less spectacular in their impact, have forced the resignation of Cabinet ministers (as for example in the cases of David Blunkett and Liam Fox), revealed continuing engagement in lobbying activities by

MPs and peers in breach of parliamentary rules and highlighted, as in the loans for peerages case, the dangerous dependence of parties on individual donors. All parties have experienced embarrassing incidents of improper behaviour by their standard-bearers at national and local level. Allegations of unethical and even illegal conduct have arisen at the very heart of government, in some cases even involving the prime minister directly. There has thus been a steady drip of scandal in British public life. While rarely suggesting systemic wrong-doing or formal corruption, they have been enough to cause recurrent political controversy.

Twenty years ago integrity issues were not significant enough in public life to lead us to think that the range of institutions which regulated public ethics constituted an integrity *system*.[2] This changed with the work of the Committee on Standards in Public Life (CSPL), considered in Chapter 3. It was not itself intended to be a regulator, but through the large volume of legislation enacted after its 1995 first report it prompted extensive regulatory innovation. So extensive was the CSPL's impact that by 2007 the Public Administration Select Committee (PASC) could argue that ethics regulators constituted 'an integral and permanent part of the constitutional landscape'.[3]

This book analyses the United Kingdom's distinctive approach to regulating integrity issues. It is a study of regulatory response to the perceived problems of misconduct in public life, setting the complex new ethics machinery in the broader context of British institutions and political culture. Its main purpose is to explain the recurrent regulatory dilemmas that have emerged, and how they have been addressed. It seeks especially to understand the particular difficulties that arise in regulating public ethics where the inherently political nature of the terrain produces complicating factors not found to the same extent in other regulatory domains. Although the book is rooted in the United Kingdom, many of the conclusions have a wider relevance, not least because so many other contemporary democracies have been forced to address integrity issues.

The concept of public integrity is a broad one.[4] There is a degree of overlap with the scholarship on corruption and conflict of interest but it also intersects in important ways with the broader literature on governance and on key concepts in the study of administration such as accountability.[5] Organisational culture is also important. Although ethics regulators seek transnational standards applicable across different political systems, they also recognise that the success of a particular system will depend upon the traditions and culture of the society where it operates.[6] Later in this chapter, we consider the ways in which ethics regulation is similar to, and distinct from, regulation in other areas of commercial and public life, where culture and hard rules also interact.

This field of study is still a young one despite several new academic contributions in the last decade.[7] It is important, therefore, to be clear about the scope of this book and about what our investigation can and cannot deliver. In terms of scope we have chosen to concentrate on the key areas of British political life: Parliament and central government, local and devolved government, and the perennial questions of party funding and pressure group influence. Although the general public may think other issues such as police corruption or the treatment of tax evasion at least as, if not more important than, the ones we discuss in detail, we have inevitably had to limit our coverage. And while we necessarily take account of public disquiet about such phenomena as spin and political lying, they are not in the foreground of our analysis. We here try to understand the impact on the British political system of burgeoning ethics regulation and assess the strengths and weaknesses of the institutions and values it has generated.

It is necessary also to appreciate the limitations on our knowledge of how ethical regulation has affected governmental processes in the United Kingdom. It would be desirable if, through our analysis, we could provide an objective measure of how effective the regulatory responses to problems of ethics in the public sector have been. However, there are no easy answers to the question of effectiveness. In broad terms, it may be said to divide into two parts: the *operational* impact on office-holders and the *psychological* impact on public perceptions, in particular confidence on the part of the public that office-holders are sustaining high standards of behaviour. Both measures generate difficulties. In particular they presuppose that we can tell how much impropriety existed, and what the state of public perceptions was, before new regulatory procedures were introduced. There are two reasons why neither is possible with precision.

First, a comprehensive index of improper behaviour would need to be very broad. It would have to include various forms of corruption as defined by positive law. It would need to cover the conflicts of interest that exist in latent form but are neither reported and resolved, nor exploited for gain. And it would need to encompass the huge variety of sub-standard behaviours which, when revealed, often become controversial, but which are not strictly unlawful. Combining those into a single summary measure is a daunting task. The academic and practitioner literature tends today to describe the systems needed to address all these forms of impropriety as integrity systems. However, this approach is more a conceptual tool for thinking about the problems posed by impropriety than a precise measure for assessing a system's overall effectiveness. To evaluate the overall quality of any country's integrity system, let alone to compare it with that of other countries, a great range of indicators has to be combined into a single aggregate tool of assessment. There are measures which attempt this task.[8] The best known is Transparency International's Corruption Perceptions Index (CPI), which combines in a single comparative index the results of expert surveys – some its own, some conducted by other NGOs. In 2014 the United Kingdom was placed fourteenth out of 177 countries. Eight surveys were used for the UK itself.[9] The CPI and similar indices certainly assemble a great deal of information and are widely cited in corruption literature. However they are designed for many different contexts, including countries with high levels of criminal corruption.

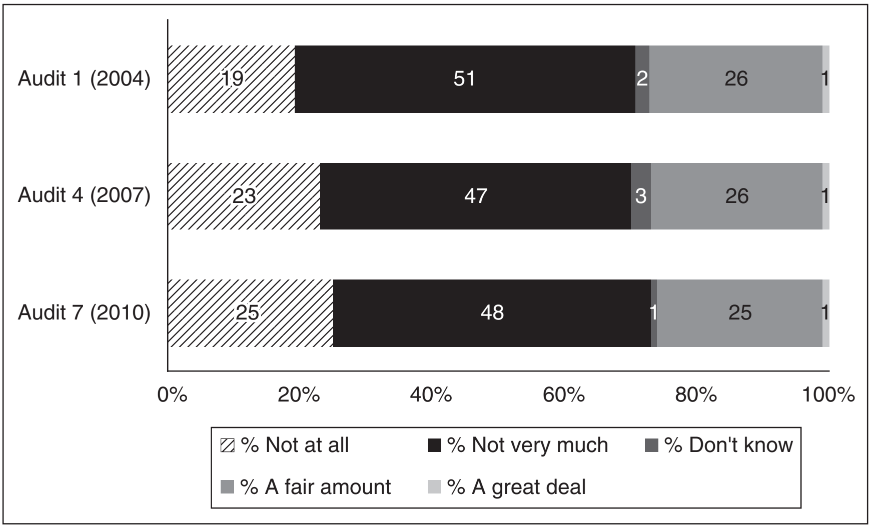
While there is of course a real and growing concern about outright criminal corruption in advanced democracies, there are also concerns about two other broad categories. The first is what by some is described as 'institutionalised corruption': the multiplicity of ways in which, for example, financial institutions, taxation authorities, businesses, the police, security services, the press and other social and institutional actors gain advantages, sometimes spectacular advantages, for some groups at the expense of others. Where such behaviour may not be illegal, but is deemed highly unjust, and seems to stem from huge structural inequalities in the distribution of power in advanced societies, some scholars adapt long-standing tools used in the sociological study of power to redefine certain exercises of power as 'corruption'. Thus a recent collection of essays argues that the UK's relatively high CPI ranking is misplaced because of inherent bias towards measurement of the sorts of 'corruption' (illegal corruption) found most prevalently in less developed economies, and away from the institutionalised but mostly not illegal 'corruption' found in countries like the United Kingdom.[10] The second category, which overlaps with the first, but which is normally identified through the behaviour of individuals, rather than the structural power of institutions (though the two may be linked), is what has come to be known in the United Kingdom as 'standards in public life'. This behaviour is also controversial and in a general sense 'improper', but also falls short of hard corruption. The line between the two is clearly indistinct. Individual behaviour is more readily identified and judged. It is far easier to discuss blame in relation to individuals than entire social structures, and therefore it is the 'standards-in-public-life' dimension of non-criminal corruption that has, until recently, received most attention in public debate and public action. In relation to the United Kingdom's key political institutions, it is the focus of much of this book.

A further difficulty in assessing the impact of ethics regulation is connected to the second objective of regulation: public confidence or trust. Trust is a multi-faceted concept requiring distinctions to be drawn between its different dimensions, for example trust in institutions and trust in politicians and other public officials. In recent years, some progress has been made in measuring trust[11] but we do not have time-series data that will tell us the relevant information about public attitudes at the starting point of this study, two decades ago. Moreover, most electorates contain a mix of individuals, ranging from those who trust institutions and office-holders, to those who are less trusting, and there is likely to be no strong binary divide. The raw data that emerges from time-series data like the European Social Survey (ESS) and the Eurobarometer polls, which have long included general questions about public trust, therefore always need careful interpretation.[12] Two key ways to do so are to consider whether the democracy in question is substantially different from other democracies, and whether indicators of trust are changing over time. On the first of these, we know from ESS and Eurobarometer data that there seem to be broadly similar levels of trust in Parliament, politicians and political parties in the United Kingdom as in France and Germany. The ESS data suggests that the share of the electorate giving a positive trust rating (six or more on a ten-point scale) for politicians and parties is low in all three countries. Comparison of these states with the smaller democracies of Scandinavia and the Netherlands suggests they all exhibit levels of trust in politicians and parties about 20 per cent lower than in the smaller more cohesive democracies. But absolute levels in the larger countries do not vary greatly over the last two decades covered by the surveys.

Limiting ourselves to the UK alone, there are fairly long-standing comparisons of public trust in some classes of public office-holder, which reveal important and fairly stable differences. Judges, senior police officers and doctors tend to be trusted by above or well above 50 per cent of respondents to surveys, whereas MPs and government ministers tend to be trusted by fewer than one-third of respondents. These are well established comparisons, and have not changed since the first surveys in the 1980s.[13]

A more important question, for our purposes, is whether we can establish trends in trust in politicians *over time* that can be linked first to the impact of impropriety, and secondly to measures to prevent it. Unfortunately that information could only meaningfully arise from repeated survey research over many years, and there is very little consistent research of this type. So here we rely largely on two time-series data-sets built across the last decade: one from the CSPL[14] and the other from the Hansard Society.[15] They both began in 2004, the former publishing its most recent results in 2013, and the latter in 2014. They point to a broadly similar picture, in which from the 2004 starting point (of an already low

1 Public trust in politicians



Source: The Hansard Society *Audit of Political Engagement 7: The 2010 Report, (Hansard Society, London, 2010) p. 8*

base of public trust) there was a significant slow widening of the negative trust deficit.

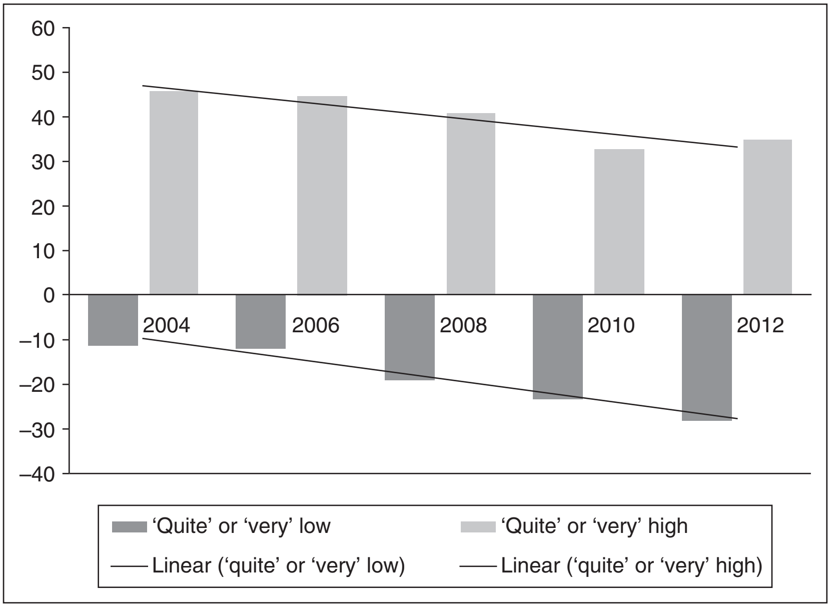
Thus (Figure 1) in 2004 in the Hansard Society's first Audit of Democratic Engagement, 70 per cent of respondents felt they could trust politicians 'not very much' or not at all, and this figure increased by 2010 to 73 per cent, with the sub-group not trusting politicians at all rising from 19 to 25 per cent. The data resulting from the CSPL survey showed a more marked shift, based on a broader question about 'overall standards of conduct of public office holders in the United Kingdom'. The question covered all office-holders and not just 'politicians' who, as we have noted, tend to rank much lower than some other office-holders; as would be expected from this, the starting point was a higher overall level of approval.

Figure 2 shows that overall those who reported a quite high or very high judgement of public standards fell from 46 to 35 per cent over five surveys from 2004–2012, while those reporting a quite, or very, low rating rose from 11 to 28 per cent.

We find a more complex pattern when respondents are asked directly whether they themselves believe there are any discernible trends.

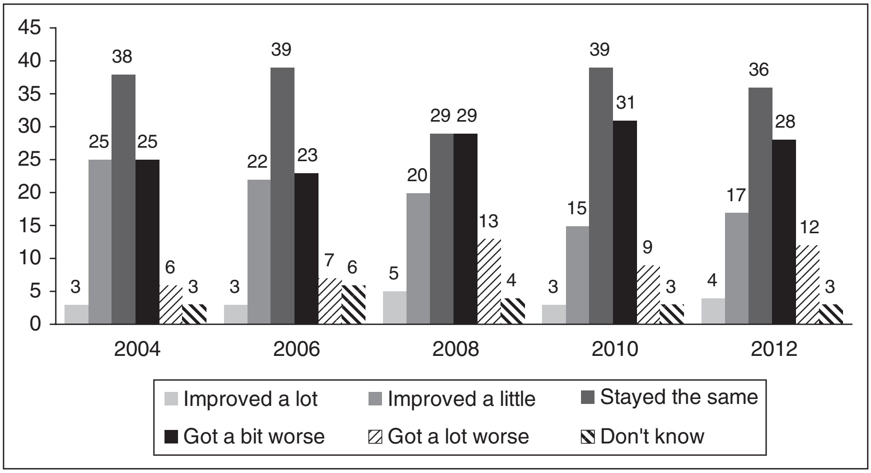
As Figure 3 shows, just under 40 per cent in the survey conducted by the CSPL believed things had not greatly changed compared with 'a few years ago', though those who thought matters had got a lot or at least a little worse rose from 31 to 40 per cent. Those who thought matters had

2 Public perceptions of overall standards of conduct in public life



Source: Committee on Standards in Public Life *Survey of public attitudes towards conduct in public life 2012* (Committee on Standards in Public Life, London, September 2013)

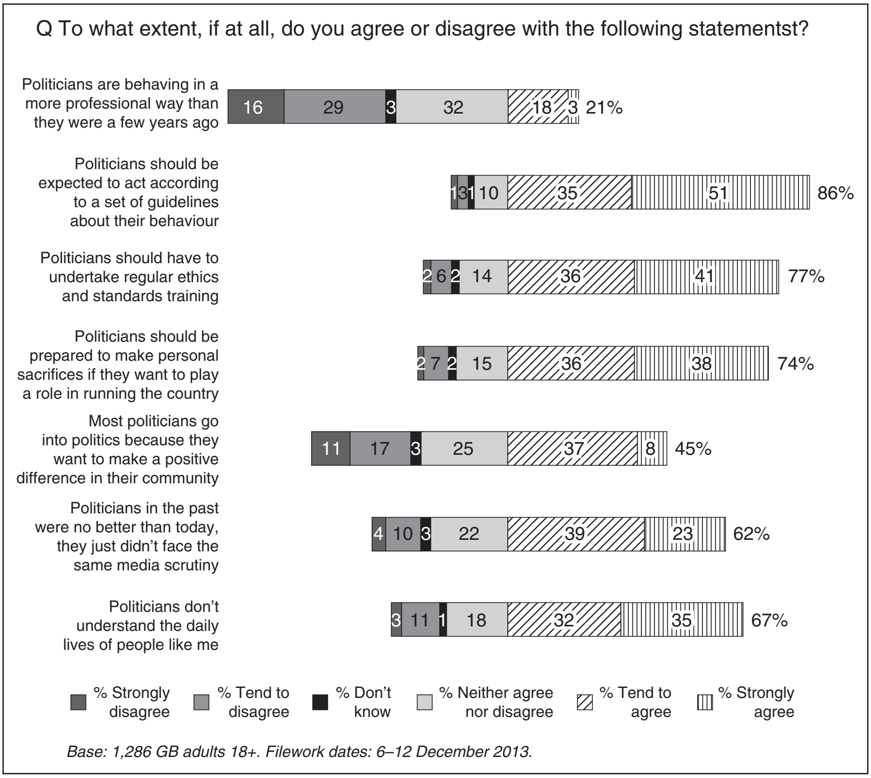
3 Public estimates of *changes* in standards in public life



Source: Committee on Standards in Public Life *Survey of public attitudes towards conduct in public life 2012* (Committee on Standards in Public Life, London, September 2013)

improved a lot or a little fell from 28 to 21 per cent. The Hansard Audit has no comparable time-series figure, though in 2014 the Audit asked respondents (Figure 4) whether politicians were behaving 'in a more professional way than a few years ago', on which question respondents

4 Assessments of changes in certain public standards (Hansard Society Audit)



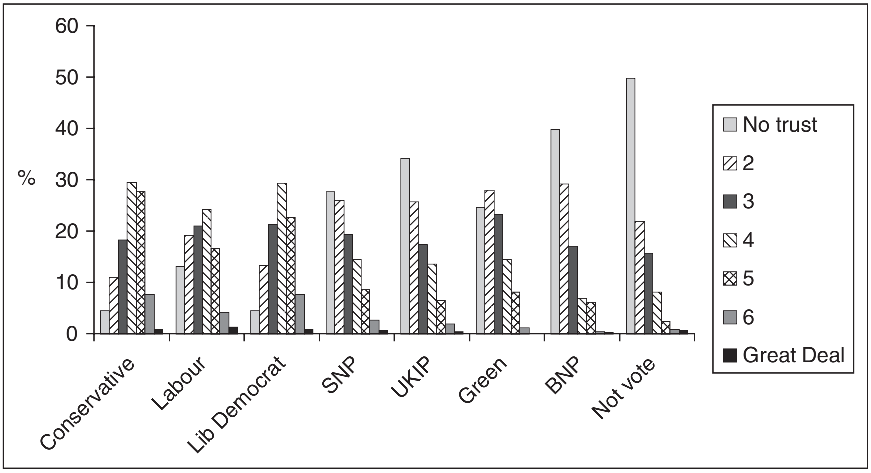
Source: The Hansard Society *Audit of Political Engagement 11: The 2014 Report, (Hansard Society, London, 2014) p. 76*

with a negative view (45 per cent) significantly outnumbered positive respondents (21 per cent). Significantly, however, when asked whether they agreed with the statement that 'politicians in the past were no better than today, they just didn't face the same media scrutiny' those who agreed outnumbered those who disagreed by 62 to 14 per cent, suggesting that when prompted towards a more considered view their negative judgements diminished somewhat.

The two surveys in question dealt with a number of other issues with varying degrees of separation from the central issue of trust, but in each case similar patterns were observed. What emerges clearly is that, as we would expect from a time period containing a dramatic episode of public controversy over the ethics of a large proportion of MPs (examined in Chapters 4 and 5) there is a significant decline in trust, though given the huge public attention the episode attracted, the impact seems to have been contained, and moreover was part of a trend already clearly in evidence before the scandal. What we have no way of establishing, however, is whether the trend is (as is popularly assumed to be the case) a direct public response to the specific chain of ethics controversies that affected UK public life from the early 1990s onwards. Alternatively, it could have been exacerbated by the public attention concentrated on public ethics as the authorities introduced more intrusive ethics regulation over the two decades thereafter, thereby attracting much media and public attention leading to *perceptions* of falling standards. Or it may, through some significant *improvement* in absolute public standards, have prevented an even worse decline in public perceptions, averted by reform processes.

Comparative survey research has thus tended to ask only general questions about trust, so the possible impact of *particular* episodes of impropriety, or of *particular* new measures to improve public ethics, is hard to deduce with certainty from the survey data. This point needs to be borne in mind in the chapters which follow. We analyse the measures that have been put in place, and we seek to assess difficulties in making them operationally effective; but we cannot lay claim to insight on their impact on public opinion. The same applies to the broader impact on British politics of the rising attention paid to ethics issues. We know from election results and survey data that the two-party share of the vote has declined over several decades, (the most rapid decline being actually back in the 1980s) and we see that share falling to an historic low (below 70 per cent) since 2010. We cannot, however, be sure what part of it, if any, to attribute to declining trust in mainstream politicians. Significantly it is evident that trust in politicians is much lower among those supporting ‘challenger parties’ (UK Independence Party (UKIP), the Greens, the Scottish Nationalist Party (SNP) and the British National Party (BNP)), than those supporting the three established parties. Unfortunately, we cannot be certain whether low trust in political leaders directly causes detachment from establishment politics, and increases support for radical and challenger parties, or whether there is a causal relationship running the other way. We can simply see an *association* (Figure 5) with these forms of political behaviour, so that on a seven-point scale among respondents in the British election survey, running from low trust to high trust, half or more of those reporting a vote for each of UKIP, the SNP, the BNP and the Greens reported the two lowest levels of trust, against 15, 32 and 18 per cent, respectively, for the Conservatives, Labour and the Liberal Democrats.

When seeking to understand the effectiveness of particular regulatory tools, public perceptions of corruption or of declining standards are therefore only one part of the picture. They are not a surrogate measure for absolute standards of integrity. Given the variations that result from the short-term impact of high-profile events, only a long time-series will



5 Trust in MPs by party

Source: British Election Study, **Panel study data** 2014 (Total respondents=29,116), saved at http://goo.gl/c0uZfq

be adequate. In any case, while the goal of public ethics certainly includes the sustaining of high levels of trust in institutions and in officials, trust may be misplaced; and mistrust may be mistaken. Public attitudes are often shallow and superficial and paradoxically may in the short term evolve in directions contrary to absolute standards.

Even after two decades of ethics re-engineering, therefore, it remains difficult to say clearly whether ‘standards in public life’, let alone the ‘institutionalised corruption’ discussed earlier, have got better or worse. Nor is it possible to say with confidence where the United Kingdom stands compared to other countries. Those who think they can confidently make such judgements are probably deceiving themselves. Office-holders are certainly more conscious of public ethics issues than they were two decades ago. They could hardly fail to be, given the burgeoning apparatus of ethics regulation we are about to explore. Rules of conduct are more precise and the media are much more engaged with ethics and integrity issues. However, the proliferation of requirements bearing on office-holders means there are more ways in which they may transgress, whether consciously or carelessly. Moreover, changes in recruitment to public life, shifts in the boundary between the public and the private sectors, alterations in the resources political parties can obtain, and developments in the opportunities available to those who leave public office, all make for a more complex ethical environment.

Beyond these factors, there is the possibility of a significant shift over time in personal standards, irrespective of the size of the temptations encountered or the pressures office-holders face. If politicians think they can survive a serious ethical controversy they may become less risk averse. A more material society may make a new generation of politicians or public servants materially greedier than its predecessors if the opportunity cost of public service seems to have risen. Controversy about the earning capacities of senior politicians and civil servants on leaving office has certainly increased in the last two decades.

There are many ways in which to get to grips with this complexity. Ours is to start with recently developed approaches to regulation. The contribution we offer in this book is an understanding of the operation of the key ethics regulators themselves, and the problems they have encountered in the different sectors of British public life. For this endeavour, we need an analytical framework giving clear hypotheses about what is distinctive about ethics regulation, how it works, how it is affected by the broader framework of institutions and institutional culture in the United Kingdom, and how it might be expected to evolve over time. We initially take the attitudinal background as a set of givens: rising public and media sensitivity to impropriety; the shift in political concerns towards valence issues such as 'fitness to govern'; and growing demands for accountability and transparency. We suspect there is a causal connection between some of the problems of setting up ethics regulators and making them fit for purpose, and the evolution of public attitudes, but for the reasons just described – mainly the absence of retrospective data – we cannot explore them in the body of the argument.

Regulation involving public ethics

If regulating public integrity is a part of a broader category of regulatory activity, we should expect many of the intellectual and academic controversies about regulation to apply to our field, albeit with variations.[16] The framework we use borrows a good deal from the regulatory literature. Much regulation involves the use of technical and scientific expertise to provide tightly-knit protections concerning safety: for example pharmaceuticals, food purity, medical practice and transport. It is distinct from ethics regulation in that it deploys specialist professional expertise, and precise technical rules as well as extensive surveillance of behaviour. Other regulatory areas focus on the consumer and on protecting the economy against structural failures, for example in banking or utility supervision. The focus there is less on the detailed surveillance of behaviour than on the general context of the market, partly through steerage and light-touch guidance, sometimes known as 'smart regulation'.

Here we get closer to our own agenda of concerns. The regulation literature seeks to capture the goals of regulation, and what makes it effective. Its sub-branches include debates on whether regulatory agencies generate perverse effects giving the regulated ways of evading the regulator's scope, and pushing a problem out beyond the initially defined area of regulation; or burdening the regulated with excessive compliance costs with negative effects on energies, talents and initiative. Certainly, one characteristic pattern of behaviour in ethics regulation that we shall observe is that governments frequently appear to legislate in haste in response to a scandal or a moral panic, without enough consideration of the issues. As we shall see, when this happens disputes over the regulatory burden, effectiveness and indeed legitimacy of ethics regulators tend to set in strikingly quickly, sometimes with damaging effects on the agencies themselves.

Regulating public ethics obviously has the greatest affinity with other forms of regulation *inside government*. In societies with a strong public-law tradition the concept of internal legal controls on all actors is very familiar. In the United Kingdom, administrative law has less well-defined roots, though few public lawyers any longer deny administrative law's force and distinctiveness. In the post-war era, furthermore, the well-studied tendency for courts to intervene to define the meaning of statute or to declare public action *ultra vires* for failing to meet legally defined standards of fairness, has expanded the opportunity for judicial review and created a further sphere of legal contention and redress, increasingly like the continental public-law tradition. Moreover, even in the United Kingdom there is a long tradition of regulation inside government which goes back well into the nineteenth century through public auditing, as in the case of the office of the Comptroller and Auditor General. More recently, quality and performance indicators for local and national public services have greatly extended the scope of this internal regulation.[17]

Regulation is therefore a fact of life in modern government, and regulation inside government (and regulation of ethics and propriety within that) seems unlikely to be scaled back dramatically in the near term. But regulation continues to be subject to debate about cost, burden and effectiveness. After the 2010 general election, that controversy increased. A key plank of Conservative local-government policy, announced immediately the new government was formed, was the abolition of the Audit Commission, on grounds of both cost-saving and audit effectiveness. Although the style of Audit Commission inquiries was sometimes controversial, the savings of replacement auditing were much disputed, as was the suddenness of the Commission's abolition.[18] Other regulators, including some in the ethics and propriety field, were also called into question after 2010. The Standards Board for England (which supervised local government ethics) was summarily abolished.

However in other areas pressures for more regulation, or new and different regulation, actually increased. There was intense debate over the effectiveness of self-regulation of the British press, following a series of scandals about hacking and other illegal activities which led to the wide-ranging Leveson Inquiry;[19] and there was debate about financial-service regulation, following extensive concern about the ethics prevalent in the banking sector. Controversy continued after the publication of the reports of the Independent Commission on Banking (the Vickers Report), and subsequently with the publication of the Parliamentary Committee on Banking Standards.[20] They brought renewed calls for stronger regulation in their respective areas. Interestingly, although both the press and the banks were private-sector operators, the source of anxiety driving the reports was not simply market disorders and imperfections but the ethical frameworks into which the actors in these sectors were socialised. The remedies were seen to lie mainly in the regulation of incentives, and the structural framework within which the sector operates. The parallel with ethics for public servants lay not simply in the need for a clearly stated code of principle-based ethical conduct, rather than simply a list of procedural requirements. It lay also in the vexed question of how best to achieve enhanced standards of behaviour. In particular, in the case of the press, despite the extreme sensitivity of suggestions of potential political interference with the press, it raised the question of whether a code of conduct and a regulator should have a minimal statutory basis.[21]

The parallel with regulation in public ethics is certainly not exact, but it is instructive. In the case of press regulation, there are contrasting considerations at work: statutory underpinning risks political interference if governments choose to interfere politically with the appointment of regulators; self-regulation without statutory underpinning risks lax and cosily inadequate standards. The risks from political interference, moreover, might be thought to run two ways: politicians might interfere with the free press through their power of appointment of regulators, or conversely the political power of the press might intimidate politicians into interfering with the regulators to make them more accommodating.

The parallel with ethics regulators is the dilemma stemming from the possibility that, without a statutory basis, public ethics regulators may lack impact and security of tenure. If, for example, they rest only on a departmental or Cabinet Office budget, they could be starved of funds or personnel, dissuaded from intervening, ignored, given inadequate operating rules, or in some circumstances summarily abolished. Equally, if there is a statutory basis, and one which emphasises independence and is separate from the political cover of a sponsoring department, that status may expose the regulator to attack from those they regulate, including the legislature and the political executive. In some extreme cases a statutory basis may actually encourage political interference if it leaves a public-ethics regulator without allies and exposed to attempts to impose excessive accountability, or to colonise or politicise its oversight board. As we shall see, these risks have been present in several of the public-ethics regulators we study in this book. The usual call in public ethics is for external and independent regulation. Internal self-regulation certainly has many pitfalls as we shall see in the case of the House of Commons, but there may also be circumstances where independence itself carries material risks.

The dilemmas raised in contemporary debates about regulation therefore certainly have relevance to the sphere of public-ethics regulation. The regulation literature raises issues about scope, purpose, proportionality, and structure. One authoritative recent work on regulation laid down five top-level criteria determining regulatory effectiveness: whether the action or regime is supported by legislative authority; whether there is an appropriate scheme of accountability; whether procedures are fair, accessible and open; whether the regulator is acting with sufficient expertise; and whether the action or regime is efficient.[22] The Committee on Standards in Public Life has similar tests for public ethics. It lists proportionality and appropriate targeting, transparency linked to accountability, consistency, sensitivity to public opinion, flexibility and use of discretion, clarity of remit, robust independence, and a range of appropriate sanctions.[23] We agree that all these are important issues, and we use them as tests in this book, though, as we have already hinted in the case of legislative authority and as we will also suggest in relation to accountability, the arguments do not always run in one direction.

We also argue that, although ethics regulation shares many features with regulation more generally, some of its aspects are unique. First, ethics regulation is very broad in scope, covering the entire public sphere, including elected assemblies, elected officials, central government departments, devolved and local government, and non-departmental public bodies. Secondly, the *goals* of public-ethics regulation are difficult to measure. A well-functioning and competitive market for products or services can be measured by market share and product- and service-price. A safe market for medicines or foods is even more self-evident. But in the case of public ethics, the apparent absence of *revealed* impropriety does not necessarily mean it is not present. Thus regulators need constantly to ask themselves how they can know they are being efficient. Moreover regulation of public ethics has two parallel dimensions: one negative, the other positive. The negative aspect (constraint of misconduct) is fairly obvious. The promotion of positive values like commitment at work, objectivity, customer service, vigilance and whistle-blowing in the face of poor performance or poor leadership, is open-ended and measures of effectiveness are more difficult to devise.[24]

Thirdly there is a possibility of perverse consequences in ethics regulation. All regulation involves a trade-off of objectives, and there are risks of externalities in the burdens it imposes. In the field of ethics, there is clearly a trade-off between the deterrence of misconduct and broader costs like loss of flexibility, initiative and public-sector entrepreneurship. There is also a risk of perverse consequences for public trust. Ethics regulation is supposed to provide public reassurance about the quality of the personnel and procedures in public life. Unfortunately, the more impropriety it discovers, the lower trust may fall.

Finally, there is a *quis custodiet?* issue, which lies in the political delicacy of the regulator's role in public ethics. Some of the offices being regulated – elected MPs, and other representatives – have their own claim to legitimacy within a democratic system and the regulators are themselves accountable to the regulated. The latter may therefore conclude that if they do not like the regulation being imposed upon them, they can replace them with other, more compliant, regulators.

Categorising the regulatory framework

Public integrity systems contain two distinct dimensions: values and principles on the one hand, and formal procedures and institutions on the other. The former propagate the basic ethos of a country's public life, mainly through their declaratory, aspirational and socialising impact rather than through legal force. The latter explain what the principles mean for particular office-holders, and define and enforce precise rules of behaviour through soft-law codes, managerial discipline or hard law.

Values and principles. In regulating ethics there is clearly a need for both values and principles and for rules and institutions.[25] Values are in practice expressed through the expression of overarching principles, such as the *Seven Principles of Public Life* adumbrated by the CSPL, which have formed a cornerstone for the development and elucidation of general values for the public service as a whole in the UK in the last two decades. Statements of values are also likely to found in special professional codes for particular parts of the public service, including the police and legal professions, education or health. Their purpose is to foster a general culture or professional ethos inside an organisation. Sustaining that ethos, and ensuring that it is internalised by individuals, is usually considered essential to the enforcement of the rules themselves. Without a value system that generates buy-in to hard rules, the rules would have to work through enforcement alone, rather than socialisation. But how such socialisation works for public servants is less clear. Explicit training and induction programmes are often offered and sometimes compulsory, though how effective self-conscious induction is, as we shall see, remains a matter of doubt.

Box 1.1 The 7 principles of public life (1995, with minor modifications to descriptors in 2013)

The Seven Principles of Public Life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The Principles also have application to all those in other sectors delivering public services.

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Codes and rules. Most parts of the public service cannot rely simply on induction programmes and socialisation into general principles. Particularly when things go wrong, the remedy is usually seen to lie in more enforcement of more firmly stated rules, not in better principles, or better socialisation. But different contexts call for different types of rules. First, there is a major difference between appointed office-holders (such as civil servants), and elected office-holders (such as MPs and local councillors). The former are usually subject to general rules about propriety, set out in a management code. For elected office-holders there are dual lines of accountability. Elected representatives need both to comply with formal rules of conduct and to be accountable to their electorate. Electoral accountability can require very punctilious forms of compliance because the elected representative involved in alleged misconduct faces a permanent potential reputational risk with electoral consequences. The introduction of recall procedures would doubtless make this risk even greater.[26] From the MP's perspective the risk of mischievous manipulation of formal accountability rules, or exploitation of minor and inadvertent non-compliance, provides a strong argument for separate arrangements for elected and non-elected office-holders.

Secondly, however specialised and technical they are, regulatory institutions are also rooted in the broader democratic arrangements of the United Kingdom and have to be coordinated with them. One recurring and difficult area for regulators – since they normally have no or only limited power of criminal sanction – is coordination with the criminal justice system in cases where investigations reveal potentially criminal activity. But there are overlaps with other processes such as parliamentary accountability, transparency requirements and financial accountability. These overlaps between the ethics institutions and broader structures of democratic governance are both a strength and weakness. The strength is that institutions at the macro- and the micro-level will reinforce each other, and the tasks of deterring misconduct in public office, and encouraging high ethical standards, will be underpinned by common understandings of such notions as responsibility, accountability and the public interest. The weakness is that the pressures of majoritarian democracy will often allow calculations of political and party interest to override considerations of ethics and propriety. In Westminster and Whitehall, where the most controversial and visible cases are likely to be concentrated, ethics controversy can easily become highly partisan. As long as they can get away with it, governments will try to deal with any issue of ethics and propriety through appeal to accountability to Parliament (where they have a majority), and through the ballot box (where ethics controversy will inevitably be diluted by the many other, possibly more salient, issues).

Some of the operating procedures of ethical regulators are, as a result, widely seen as unsatisfactory. As we shall see in Chapter 8, for example, there is a requirement on ministers and civil servants to consult the Advisory Committee on Business Appointments (ACOBA) before taking a private commercial appointment on leaving office, but no completely enforceable formal obligation to take the advice given. The general doctrines surrounding ministerial ethics, though set out in a document now called the Ministerial Code, are ultimately a matter of prime-ministerial interpretation, and depend on the willingness of the parliamentary majority to continue to support the prime minister's interpretation of its applicability in any particular case. There is also a convention governing the relationship between ministers and civil servants; but the policing of that relationship is mainly at the political discretion of a prime minister or the House of Commons.

Regulatory dilemmas: proportionality and regulatory risk

From this discussion we can begin to define a framework for analysing the establishment, operation and impact of public-ethics regulators.

There are two general dilemmas that seem more important than others in ethics regulation. These are proportionality (i.e. managing the size of the regulatory burden) and the balance between accountability and independence.

Proportionality has a significant impact on a regulator's reputation. Getting the balance right to avoid debilitating controversy over regulatory burden seems to depend on two sets of decisions: those taken by the original architects of the regulation, and those taken by the regulators themselves. Proportionality is widely recommended as a prime virtue of good regulation, but few observers have any general guidelines to offer about its meaning. Advice usually emerges in subsequent battles over instances of alleged over- or under-regulation.

Over-regulation comes from the natural tendency to guard against a low-probability event causing reputational damage to the regulator. Workplace health-and-safety regulation is a widely quoted example. The cost for employers of non-compliance is nowadays so high they generally comply, if often with bad grace, while remaining critical of the burden imposed. Regulators find it difficult to lower the compliance threshold without cover from higher political authority. Between the contrasting reputational risks of excessive zeal and regulator neglect, the regulator will prefer the former. Moreover, in the early stages of regulation, awareness of the reasons for introducing regulation is often highest. Awareness of the regulatory burden only sets in as memory of the events that led to regulation fades. A clear example of the proportionality dilemma, explored in Chapter 5, is the case of the Independent Parliamentary Standards Authority (IPSA). This body was given authority to manage the MPs' expenses regime and MPs' pay and pensions in the aftermath of the dramatic 2009 expenses scandal. Two acts of Parliament gave IPSA's board a substantial degree of discretion in defining a new, greatly more robust expenses regime than that applying before the scandal. It was robust not just against fraud by MPs but even against fairly innocent misunderstandings and mistakes and carelessness. MPs, who devolved to IPSA itself the authority to design the new arrangements, quickly regretted this decision, arguing, with serious consequences for IPSA's legitimacy, that it was guilty of regulatory overkill. Thus for example MPs argued in 2011 that the cost of reimbursing 38 per cent of their claims exceeded the size of the claim itself.[27]

Problems also arise if regulatory powers are weak. As we shall see in Chapter 11, under the Political Parties, Elections and Referendums Act 2000 (PPERA), the Electoral Commission's limited sanctions against poor reporting of income by political parties was a significant instance of weakness in the original design of the regulatory architecture.[28] Initially at least, parties were casual in their observance of the new regulations, and found ways of avoiding them. When it was realised how little traction enforcement of the rules was having, it was not just the parties themselves but also the Electoral Commission that suffered the reputational damage. Ultimately the fault lay in Parliament for failing to grasp the nature of the task it was imposing on the Commission through the founding legislation.

Closer to the heart of government, there have been instances where the regulatory task was probably much better understood, but where stronger regulation would have run counter to constitutional convention. This constraint applied to the regulation of relationships between ministers and their special advisers and to the ethical conduct of ministers themselves. New rules were introduced in both areas and they are explored in Chapters 7 and 8, but the final 'regulator' of propriety remained essentially (and despite the emergence of a regulatory code) the prime minister, whose decisions will rarely be seen as free from political motivation. The result was an unsatisfactorily weak regime compared to independent regulatory adjudication and one which has generated continuing controversy about regulatory weakness.

When it comes to the strategies regulators themselves use to manage the regulatory burden given the hand they have been dealt by the legislature, several different responses emerge. The first is intelligent or so-called 'smart' accountability. For public-ethics regulators this is less sophisticated than smart regulation in market-based regimes, but it has some of the same strategic approach in seeking leverage through light-touch operating procedures chosen to provide incentives for compliance. Regulators are often encouraged to be risk-based rather than to operate regimes of full compliance, for example checking only samples of contract procedures, public appointments or expense claims. This involves a combination of self-regulation and self-reporting for the regulated, linked to assessments by the regulator of when and if to deploy fundamental compliance inspection in cases (categories or individuals) where the risk of non-compliance is highest.

A second strategy presupposes a favourable initial regulatory environment: one where there is a high degree of buy-in to ethics from the targets of regulation themselves. This strategy does not apply everywhere. In local government, where large numbers of voluntary and unpaid individuals are elected to public office without much socialisation into public service values, conflicts of interest are frequent, and buy-in to principles and codes of conduct uneven. In addition to the extensive Poulson scandal of the 1970s and the Westminster 'homes for votes' scandal of the late 1980s which we discuss in Chapter 2 there have been more recent cases of very serious corruption. One in Doncaster, which first broke in the 1990s and continued for over a decade, led to the conviction for fraud of twenty elected councillors. A second in Tower Hamlets in 2014 led to the government imposing commissioners to run large parts of the borough administration.[29] In contrast, at the heart of the government machine, the ethos of the United Kingdom Home Civil Service seems to be underpinned by very strong socialisation mechanisms. The regulator, in this case the Civil Service Commission through its Management Code, enjoys the fortunate circumstance that, while it has in fact a quite detailed regime of theoretical regulation, it is rarely needed and involves no special regulatory burden.

In more difficult contexts, regulators clearly have to have skins thick enough to face down claims of regulatory overkill head-on. They have to *explain*, proactively, and hope to win a rational argument. Primarily the explanation will be to those to whom the regulator is accountable but at times the battle will need to be played out with the press and public opinion. This will require vigorous appeal back to the founding legislation and regular reminders about what concerned public opinion at the time the need for regulation arose. The dependence on political sponsors that even 'independent' regulators face obviously makes this a risky strategy but as we shall see the risk is one some (such as IPSA) have been willing to take.

Finally, there is effective use of transparency. 'Openness' is one of the CSPL's Seven Principles. We discuss its strengths and limitations in more detail later.[30] Often standards-related impropriety attracts at most a censure from a regulator and nothing more because in the initial design it had been thought impossible or inappropriate to give the regulator a direct sanction. In these circumstances, the regulator may need to rely on transparency to create the threat of severe reputational damage to the miscreant and to force those higher up the scale of authority (in the case of the House of Commons, for example, the Committee on Standards in relation to the Parliamentary Commissioner for Standards) to impose a penalty *because* of what transparency has revealed. The difficulty, however, is that transparency may provide too *much* information. Transparency now operates across many different fields including party funding, interest-group access to decision-makers, politicians' personal interests, earnings and expenses payments and the income sources of officials after leaving public office. It therefore provides repeated opportunities for low-level critical comment punctuated by occasional peaks of controversy. In such circumstances, transparency may gradually lose its impact. Thick-skinned office-holders learn to tough out difficult moments; voters become inured to revelations and lose much of their capacity to target their disaffection efficiently. It is rarely argued that any particular corner of public life requires less rather than more transparency but the cumulative effect of enhanced transparency can nevertheless be perverse. Throwing a large volume of undigested information into the public domain through indiscriminate transparency requirements may be just too difficult for ordinary citizens to evaluate.[31]

A good deal of empirical trial-and-error adjustment will always be called for as regulators find the right balance between these various approaches. Few regulators get bigger budgets as time goes on. Where budgets are limited, operational experience can assist them in figuring out what is controversial and difficult, and then focusing their energies on it, even if, initially, it was not intended to be an important part of their remit. In particular, risk-based strategies that focus resources such as selective audit on the key risks can be adopted once the size of risk is understood.

Independence, self-regulation, accountability

Almost all the public bodies we examine in this study – the Electoral Commission (EC), the Standards Board for England (SBE), the IPSA, the ACOBA, even the CSPL itself – produce outputs of some sort: advice, adjudication, and sometimes services, as in the case of the IPSA's payments-provider role. They all use public resources. So while they need to be independent, they also need to be subject to some form of accountability over cost and performance, and where they have delegated authority to formulate regulatory rules, they also need to be accountable for those rules. But accountability itself has to be of a high standard. Those who exercise it must avoid deliberate and mischievous efforts to undermine its target. This problem has arisen with many regulatory agencies outside the sphere of ethics, but it is particularly serious when an agency is acting in a quasi-judicial mode and needs to be seen as authoritative and impartial. There are, of necessity, different lines of accountability, related to the different formal bases regulators have. A regulator with a statutory basis has a more direct line of accountability to Parliament, since it is Parliament that approves the initial structure and mission. An authority with NDPB status (such as the CSPL) generally relies for its sponsorship and existence directly on a government department, often on the Cabinet Office. But whatever the format, the quality of accountability needs to be high in both directions for the sake of regulator effectiveness. Judgments need to be taken in the context of the constraints of the original design; and the accountability process has to ensure that it does not undermine the operation of the regulators.

It therefore seems important that there is a hinterland of agreed support when regulators are established. This places a heavy responsibility on both government and Parliament to consider with care, and ahead of time, the balance between independence and accountability when establishing a new regulator. A proper balance is clearly best achieved if there is a settled understanding of mission, purposes, resources and duration, from the outset. If there is more work to be done on these questions after the regulator has started work, there is a serious risk of drawing it into unhealthy political controversy. Establishing a balance is more difficult to achieve than may appear because regulators have often been established hastily in response to serious ethical controversies. Important details then get postponed to subordinate legislation. Whether or not regulatory agencies are endowed with a statutory base, they should as far as possible be seen as long-term quasi-constitutional projects, in which an underpinning of prior cross-party agreement has been established. This will be vital to ensure that the proper accountability to which all regulators must be subject is not overlain by continuing political controversy. Accountability which is overlain by partisan arguments not about performance, but about the more fundamental issues of the mission and resources of the regulator, are likely to damage the regulator's effectiveness. Good-quality public servants will not commit to an organisation that may have a limited life, and is constantly facing unjustified criticism. Recruitment and retention of staff, poor morale, and endemic arguments over priorities and procedures, can seriously damage performance. Accountability takes various forms in modern democracies. The relevant forms should if possible be spelled out in founding legislation – including financial and operational accountability to appropriate parliamentary bodies. Parliament should not then depart from agreed norms lightly. Respect for some degree of separation of powers is important, and particular care should be taken of this in the early years of a new regulator's operation. As we shall see, this has not always been the case.

Analytical framework

We now draw the dilemmas we have discussed into a more formal framework for examining the United Kingdom's ethics regulators. We divide our framework into questions about the initial design, questions about regulatory implementation, and questions about accountability. Each of Chapters 3 to 9 follows this broad format. Chapters 4 to 6 cover the legislature, Chapters 7 to 9 the executive, Chapters 10 and 11 cover parties and lobbying, and Chapters 12 and 13 cover local government and the devolved systems of Scotland, Wales and Northern Ireland. We hypothesise that in any of these areas a failure at the initial design stage will have serious implications for the implementation of regulation, and for accountability. And as discussed above, accountability controversies will then feed back into operational difficulties. The indicators we use in each of these three categories require brief explanation, though they are more fully explained in the sectoral chapters which follow.

Of each initial regulatory design, we ask how far it was a version of a more general blueprint for the whole public sphere, and what its key features were, including the statutory or non-statutory basis chosen and the lines of accountability, and we assess how perfected or incomplete the framework was at the start of the agency's life. Was there more to do, especially through secondary legislation, and if so, what was the reason for deferring these choices? We consider how far the agency took over from another or filled a regulatory gap, what transfer problems were involved where there was an element of transfer, and with what consequences. And we seek to assess the extent to which there was common ground amongst all stakeholders on the need for regulation, and the form it took in the initial design. Was the agency born out of institutional consensus, or out of dissensus, and did this appear to store up operational difficulty for the future? Was it created with evidence of haste, driven by partisan politics or legislative timetable difficulties, in ways that may have compromised its operation?

As regards implementation and operation, we recognise that our assessment will be incomplete for all the reasons connected with assessing and measuring the amount of impropriety in public life more generally. Assessment has therefore to depend to a large extent on second-order measures. Clearly the emergence of new controversies, and clear signs that old pathologies continue despite the regulator's presence, are important evidence. Mostly, these issues will show up as controversies over the sufficiency of resources, over the adequacy of remit (whether too large and unfocused, or too narrow) and in changes of priority, reorganisations or, in the last resort, fresh legislation.

Lines of accountability, and accountability outcomes, are in some respects the most straightforward, since they tend to have a formal description, and they today leave a clear evidence trail. Assessing the impact of accountability is, as we have already said, far harder. Broad changes in the structure of political accountability occasionally become so obvious, as in the case of parliamentary select committees in the United Kingdom, that their impact is impossible to deny, while remaining very difficult to measure. In more circumscribed areas like the accountability of particular regulators, the judgement will be more difficult, and we have relied mainly on close textual analysis of the verbatim reports of investigation and responses of both government and regulator. It is a major innovation of openness in UK government that this evidence trail is now extensively available for analysis.

We believe that the most fundamental qualities of a regulatory regime in the sphere of public ethics are its authority and legitimacy. The rule of law can work even when judges and the police and the courts are subject to heavy criticism from politicians or others, but the sustainability of the rule of law is, under continuous criticism, eventually likely to be questioned, since many will fear that efforts are afoot to intimidate law officers. Similarly with ethics regulators, we believe that public support, and support from those being regulated, will erode if there is not a hinterland of support from those most closely involved in the original political sponsorship of regulators.

We hypothesise two contrasting paradigms of regulation:

- an optimal path, along which there is consensus over mission and resources, agreement on how a regulator should operate and how it should be audited and assessed, good public understanding of the problems in the field, and high buy-in from the leadership of institutions being regulated;
- a worst-case path in which a regulator is born without consensus, subjected to regular intense forms of accountability, threatened with abolition or replacement, starved of resources, contested by those it seeks to regulate, and brought to public attention only in the case of apparent failure.

Our task, using the tools outlined above, is to assess where ethics regulation has tended towards the one or the other. We have four main propositions. The first is that ethics regulators need a strong hinterland of broad cross-party and institutional support to establish themselves and the legitimacy of their credentials. Regulators that fail to build institutional allies, especially among those institutions and categories of public servant they regulate, will have the greatest operational difficulty. Establishing the principle and broad agency configuration of regulation, but deferring definition of its precise operational remit, poses severe risks to the agency.

Our second proposition is that principles and broad values are largely symbolic statements of top-level aspirations about public life in the United Kingdom, and that there is a natural tendency in ethics regulation to rely increasingly on detailed codes of conduct as regulation proceeds. Training for principles and values in the United Kingdom's public life is difficult to achieve and rare; compliance with detailed codes has become the norm.

Our third proposition is that, agreed mechanisms and norms of accountability for ethics regulators having emerged only recently and unevenly, their accountability, in the United Kingdom context, depends both on the level of prevailing controversy in particular areas of regulation, and on the political sensitivity of the institutions and public-office-holders involved. The difficulty of measuring regulator effectiveness adds to its enduring controversy. Regulators are frequently required to attain unquantifiable goals, or blamed for matters that are beyond their control. There is a high risk of blame avoidance in ethics regulation and the agencies of regulation have only limited tools available to avoid blame, compared to government and legislators.

Finally, we argue that the challenging task of assembling adequate resources and skill sets for effective regulation is related not just to normal issues of budget adequacy, but also to bureau-building issues, recruitment problems, the relative newness of the institutional territory, and the type of accountability to which an agency is subject.

We are clear that the testing of these ideas will not resolve any dispute beyond all reasonable doubt. The nature of the evidence we consider will be imperfect and contested. The N is small and highly varied. Our method is evaluative not quantitative. We nevertheless hope to illuminate and clarify issues that merit further detailed institutional analysis.

To summarise, in this chapter, we have outlined the dilemmas of ethical regulation, and the first part of a framework for examining it. In Chapter 2 we set the agenda of ethical regulation in historical context showing how the need for such regulation was acknowledged only slowly and highlight some of the ethical controversies which eventually prompted a new approach to integrity issues. In Chapter 3 we look at the impact of the CSPL – the main vehicle for setting the terms of the ethics debate that has developed since the start of the 1990s. Chapters 4 to 13 then take the regulatory dilemmas we have outlined to date to show how they affected the different sectors of public-ethics regulation in the United Kingdom. Finally in Chapter 14 we draw together our conclusions about this new but problematic area of British politics and government.

Notes

1 For an overview of the impact of the expenses scandal see van Heerde-Hudson, J., *The Political Costs of the 2009 British MPs' Expenses Scandal* (Basingstoke: Palgrave, 2014).

2 For a definition in comparative context, see Head, B., A. Brown and C. Connors (eds), *Promoting Integrity: Evaluating and Improving Public Institutions* (Farnham: Ashgate, 2008).

3 Public Administration Select Committee, *Ethics and Standards: The Regulation of Conduct in Public Life*, HC 121 I, 29 April 2007.

4 There is now a burgeoning literature on public integrity, covered in the bibliography. For an introduction to the topic see Dobel, J., *Public Integrity* (Baltimore: Johns Hopkins University Press, 2002); also Head *et al.*, *Promoting Integrity*.

5 On corruption see Heidenheimer, A. and M. Johnston, *Corruption: Concepts and Contexts* (New Brunswick and London: Transaction Books, 2002). On conflict of interest see Trost, C. and A. Gash, (eds), *Conflict of Interest in Public Life: Cross National Perspectives* (Cambridge: Cambridge University Press, 2008).

6 For a discussion of the concept of public integrity in an international context see Huberts, L.W., J. Maesschalk and C. Jurkiewicz (eds), *Ethics and Integrity of Governance: Perspectives across Frontiers* (Cheltenham: Edward Elgar, 2008). See also the detailed work by the World Bank and the OECD including *Public Sector Integrity: A Framework for Assessment* (OECD, 2005). On the need to take specific country factors into account see Peele, G. and R. Kaye, 'Regulating conflicts of interest: securing accountability in the modern state', in I. Sandoval (ed.), *Contemporary Debates on Corruption and Transparency: Rethinking State, Market and Society* (Washington, DC: World Bank and National Autonomous University of Mexico, 2011).

7 For a survey see Lawton, A. and A. Doig, 'Researching ethics for public service organizations: the view from Europe', *Public Integrity*, 8:1 (2005–2006), 11–33.

8 See Johnson, M., 'Measuring the new corruption rankings: implications for analysis and reform', in Heidenheimer and Johnston, *Political Corruption*, pp. 865–884. On the measurement of corruption more generally see Sampford, C., A. Shacklock, C. Connors and F. Galtung, *Measuring Corruption* (Aldershot: Ashgate, 2006).

9 Transparency International, *Corruption Perceptions Index 2014* (Berlin: Transparency International, 2014). The CPI combines the survey results into a single index running from a score of 100 (corruption-free) to 0 (completely corrupt).

10 Whyte, D. (ed.), *How Corrupt is Britain?* (London: Pluto Press, 2015).

11 See Rose, J. *The Public Understanding of Political Integrity: The Case for Probity Perceptions* (London: Palgrave, 2014).

12 See respectively http://wwweuropeansocialsurvey.org/ and http://ec.europa.eu/public_opinion/archives/eb_arch_en.htm.

13 Rose, *The Public Understanding of Political Integrity*, p. 5.

14 For the latest, see Committee on Standards in Public Life, *Survey of Public Attitudes towards Conduct in Public Life*, BMRB Social Research, 2013.

15 For the latest, see The Hansard Society, *Audit of Political Engagement 11: The 2014 Report* (London: Hansard Society, 2014).

16 The literature on the role of regulation in the modern state is extensive. See Baldwin, R., M. Cave and M. Lodge, *Understanding Regulation: Theory,*

Strategy and Practice (Oxford: Oxford University Press, 2011); Baldwin, R., M. Cave and M. Lodge (eds), *The Oxford Handbook of Regulation* (Oxford: Oxford University Press, 2010); and Coglianese, C. and A. Kagan (eds), *Regulation and Regulatory Processes* (Farnham: Ashgate, 2007); Vogel, D., *National Styles of Regulation: Environmental Policy in Great Britain and the United States* (Ithaca: Cornell University Press, 1986). On the UK specifically, see Moran, M., *The British Regulatory State* (Oxford: Oxford University Press, 2003) and Hood, C., C. Scott, O. James, G. Jones and T. Travers, *Regulation Inside Government: Waste Watchers, Quality Police and Sleaze Busters* (Oxford: Clarendon Press, 1999).

17 Hood *et al.*, *Regulation Inside Government*.

18 For background on the Commission see Kelly, J., 'The Audit Commission guiding, steering and regulating local government', *Public Administration* 81:3 (2003), 459–476, and on the abolition and replacement process see Communities and Local Government Committee, *Audit and Inspection of Local Authorities*, HC 763, 7 July 2007. For a general history see Campbell-Smith, D., *Follow the Money: The Audit Commission, Public Money and the Management of Public Services* (London: Allen Lane, 2008).

19 The Leveson Inquiry, *An Inquiry into the Culture, Practices and Ethics of the Press* (London: The Stationery Office, 2012). (The executive summary, pp. 13–17, contains the main recommendations on future regulation.)

20 Parliamentary Commission on Banking Standards, *Volume I: Report, together with Formal Minutes*, HL 98, HoC 148, December 2012; Independent Commission on Banking, *Final Report*, September 2011; see also HM Treasury, *Sound Banking: Delivering Reform*, Cm 8453, October 2012.

21 Leveson recommended an independent self-regulatory system, underpinned by legislation, by which the independent code and regulator was validated by Ofcom, with the threat that if the self-regulatory system was not sufficiently robust to qualify for validation, or if some press companies refused to join, Ofcom would become the direct regulator. The Leveson Inquiry, *An Inquiry into the Culture, Practices and Ethics of the Press*, 16–17.

22 Baldwin *et al.*, *Understanding Regulation*, 27.

23 Committee on Standards in Public Life, *Standards Matter: A Review of Best Practice in Promoting Good Behaviour in Public Life*, Fourteenth Report, Cm 8519, 2013, 41–43.

24 The Committee on Standards in Public Life recently referred to this problem, noting the likelihood of a relationship between high ethical standards and high service standards, but also that it was not the job of an ethics regulator to hold office-holders to account for their use of public money. Committee on Standards in Public Life, *Standards Matter*, Fourteenth Report, 24.

25 For discussion see Head *et al.*, *Promoting Integrity*.

26 'Recall', used in some form in several advanced democracies, gives voters the chance to remove elected representatives in certain circumstances. The major parties all committed to a recall provision in the 2010 election, following the 2009 MPs' expenses scandal. As of autumn 2014, the coalition

government bill on the subject was still progressing through Parliament, with some campaigning groups dissatisfied with its contents. See, Kelly, R., C. Coleman, and N. Johnston, *Recall Elections*, House of Commons Library Standard Note 05089, 12 September 2014.

27 Arguing for example in 2011 that the cost of reimbursing 38 per cent of MPs' claims was above the size of the claim itself: Public Accounts Committee, *Independent Parliamentary Standards Authority*, HC 1426, 14 September 2011, para 2.6 (note that the PAC estimate was disputed by IPSA).

28 Committee on Standards in Public Life, *Review of the Electoral Commission*, Eleventh Report, Cm 7006, 2007, 30–36.

29 See Audit Commission, *Corporate Governance Inspection: Doncaster Metropolitan Borough Council*, April 2010 and PricewaterhouseCoopers, *Best Value Inspection of the London Borough of Tower Hamlets*, September 2014.

30 'Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.'

31 For a general discussion of transparency see Hood, C. and D. Heald, *Transparency: The Key to Better Governance?* (Oxford: Oxford University Press for the British Academy, 2006).