Concern for fostering trust in public institutions has prompted many governments to invest in systems of ethics regulation, embracing various dimensions of good governance. This article assesses the impact of ethics regulation on the conduct of English local politicians using Foucauldian perspectives on government, power, and resistance. The research finds that ethics regulation encountered problems when politicians resisted the models of political identity and behavior that it was perceived to promote. Particular concentrations of misconduct complaints were identified in which politicians believed that changes to political management structures, designed to make local governance more effective, caused a loss of voice for elected representatives. Ethics regulation itself sometimes served as a device for controlling others and effecting resistance. The article concludes with reflections on how far we should expect political conduct to be managed by such regulatory practices.

Across the globe, there has been growing interest in the promotion of good governance, including the achievement of high ethical standards of conduct in public institutions. This is reflected in the widespread rolling out of codes of conduct, statements of values, and processes for addressing misconduct allegations (Fording, Miller, and Patton 2003; West and Davis 2011). In many countries, this is driven by the urge to address serious cases of corruption and dishonesty. However, this enterprise often goes much wider, as governments seek to cultivate an array of ethical behaviors in the public sector motivated by broader desires to improve public trust.

While ethics regulation has become pervasive in Western democracies and a growing focus of public administration research, analysis of the impacts of such practices is underdeveloped (Helin and Sandström 2010; Van der Wal 2011; West and Davis 2011), and existing studies have given more attention to public officials than to elected politicians, who are the focus here. Three questions drive this article: First, can different dimensions of good conduct for politicians—such as treating others with respect, not working for self-interest, or using institutional resources appropriately—be promoted effectively by ethics regulation? Second, how do ethics regulation and the principles of good conduct that it embodies interact with other factors that shape how politicians behave? Finally, are there facets of political conduct, as an exercise in the representation of interests and mobilization of power, that make it especially resistant to formal ethics regulation?

England is an interesting context for the analysis of efforts to promote positive public values in political conduct. The Labour governments of 1997–2010 can be characterized by their efforts to restructure modes of governance across the state, notably, measures that strengthened central control and expanded the use of managerial forms of coordination (Newman 2001). Local government was a particular target, through a program of reforms badged as “local government modernization,” which included an intensification and centralization of efforts to regulate the conduct of local politicians (commonly known as “councillors” or “elected members”). Major components of what became known as the “ethical framework,” which ran for 10 years from 2000, were the introduction of a model code of conduct and processes for investigating and adjudicating complaints of misconduct. However, resistance to the ethical framework by local politicians from across the political divide, as well as the election of a coalition government in May 2010 with policies not working for self-interest, or using institutional resources appropriately—be promoted effectively by ethics regulation? Second, how do ethics regulation and the principles of good conduct that it embodies interact with other factors that shape how politicians behave? Finally, are there facets of political conduct, as an exercise in the representation of interests and mobilization of power, that make it especially resistant to formal ethics regulation?

A number of theoretical frameworks are available to examine how ethical governance arrangements are put to work, including perspectives based on actor-network theory and the “travel of ideas” literatures (Helin and Sandström 2010; Jensen, Sandström, and Helin 2010; Van der Wal 2011; West and Davis 2011). In many countries, this is driven by the urge to address serious cases of corruption and dishonesty. However, this enterprise often goes much wider, as governments seek to cultivate an array of ethical behaviors in the public sector motivated by broader desires to improve public trust.

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The various components of ethics regulation—codes, guidance, education, complaints procedures, and possible sanctions for infractions—could be said to entail a “relationship of power.”

Foucauldian perspectives on the limits of coercive state power find an echo in the dominant explanatory frameworks by which ethics regulation is deemed to “work.” Many analysts see problems arising when an integrity model, in which subjects are trusted to oversee their own behavior, is supplanted by a compliance model of regulation (see Lawton 2005; Washington and Armstrong 1996), in which the central government exercises greater surveillance and control. Such moves have been criticized as ineffective because formal, regulatory mechanisms—in which misconduct is corrected ex post through the disciplining of transgressors—require a wider basis of support in which a shared conception of what constitutes good conduct is actively embraced and pervasively reinforced through routine, informal interactions within a given organizational setting (Doig and Skelcher 2001; Greasley 2006). This requires organizational measures to foster active responsibility for ethical conduct rather than just passive compliance with rules (Bovens 1998; Greasley et al. 2006), such that subjects identify with and embrace responsibility for upholding the code of conduct.

However, Foucauldian perspectives on government and power would take us beyond this counterposition of integrity and compliance models. First, the emphasis on practices reorients analysis away from assessing the degree of alignment (or not) of behavior with a set of principles, presumed to be agreed or neutral, to tracing the construction of practices that embody and mobilize particular principles. Examining such practices alerts us to more fundamental problems in the sphere of ethics regulation, in which governments regularly struggle to define “good conduct” a priori, such that it can be used in regulatory activity. The issue has been addressed by a range of analysts, including those writing outside the Foucauldian perspective. To govern across territory, government seeks to codify and simplify its system of principles—defining the ambit of ethics regulation, specifying standardized responses—but trying to apply these often abstract values across heterogeneous, concrete situations often fails to settle questions about action (West and Davis 2011). The result is complexity and, as the ethical principles
undergo further reinterpretation, a blurring of meaning (Jensen, Sandström, and Helin 2009). Complexities also arise because of the potential for principles of good governance to conflict with each other, such as the tensions between integrity, transparency, and efficiency (De Vries 2002; Van der Wal, De Graaf, and Lawson 2011). The tendency for the relationship of values to situations to be underspecified (West and Davis 2011) explains why the desire to create and reinforce norms of behavior “tends to be accompanied by an astonishing proliferation of legislation” (Ewald 1990, 138).

The second and often connected set of problems concerns the issue of resistance. Many analysts of ethics regulation (and practitioners) tend to overlook resistance, see it as aberrant, or collapse such behavior into simple “noncompliance.” However, Foucault’s observations about the mutually constitutive nature of domination and resistance lead us to take resistance more seriously. For Foucault, in any power relation, “there is necessarily the possibility of resistance” (1996, 441) as “the history of government as the ‘conduct of conduct’ is interwoven with the history of dissenting ‘counter-conducts’” (Gordon 1991, 5). Indeed, in acting on norms of subjects and their sense of self and identity (Burchell 1991), the power relations of the ethical framework offer myriad incentives and opportunities for resistance.

Foucault’s emphasis on resistance and identity may be pertinent in exploring why politicians are especially likely to resist aspects of ethics regulation. On an immediate level, there is the competitive nature of politics and the incentives that this creates for securing short-term advantage rather than upholding abstract principles of good governance (Mulgan 2006). Further issues arise from the ways in which ethics regulation—and the conceptions of good conduct that are mobilized—intersect with the social identities of councillors and the different sets of norms that may be used to legitimize their action. In practice, politicians may draw authority for their behavior from their personal judgment, their electoral mandate, the local community, or the need to deliver on party policy—any of which may be more influential than complying with ethics regulation (Maesschalck 2004; Philip 2001). Politicians may see it as integral to their sense of self that elections should be the preeminent disciplinary process through which their behavior is regulated by society. Ethics regulation may also be seen as less salient than the ties of community. Indeed, the connections between local councillors and local networks are widely seen as a positive quality (Councillors Commission 2007, 15), but sustaining those networks may mediate the propensity of councillors to enact the values codified in ethics regulation (such as principles of impartiality).

To summarize, Foucauldian perspectives alert us to a number of potential problems in the regulation of politicians’ conduct. First, there is the difficulty of governing conduct across heterogeneous settings, multiple social relations, and (often) contested facts, in which the growing complexity of regulations cannot remove interpretive flexibility or dictate solutions for every situation. In politics, the insufficiency of codified norms is regularly exposed, and the judgments that they seek to stabilize are questioned (West and Davis 2011). Second, local politicians can draw on an array of bases for legitimizing their actions, highlighting that managerial, regulatory traditions such as the ethical framework is just one mechanism for governing conduct within the state (Bevir and Rhodes 2010; Newman 2001). As a result, one should expect a variety of responses to ethics regulation, including resistance to the technologies of power and self through which it is enacted. Resistance may be focused on specific misconduct allegations, the sanctions imposed, or the entire authority of the ethical framework and the policies behind it. Narratives of resistance may be interlinked: for example, beliefs about the unworkability of rules may legitimize noncompliance (Van der Wal, De Graaf, and Lawson 2011). Entangled with delivery and resistance is also the possibility of subversion, as the ethical framework is used to exercise power in ways and directions beyond the straightforward promulgation of good conduct.

It should be recognized that Foucauldian concepts have their limits. The binary representation of normalization/resistance may not fully capture the diversity of outcomes as devices such as ethical codes travel through society and are enacted locally (Bevir and Rhodes 2010). Helin and Sandström (2010) adopt a translation-based conception of power, which allows them to examine how actors “consenting” to ethics regulation may still reformulate its meaning, potentially devaluing its importance. Apparent compliance can thus be entangled with narratives that “resist” ethics regulation by various strategies of “distancing” its relevance to the subjects concerned (after Collinson 1994). We acknowledge this perspective and note that resistance may be overt, developed, and organized or subtle, passive, and relatively hidden (see also Scott 1985). In our analysis, however, we give primary attention to examining the explicit resistance that surfaced around ethics regulation in English local government and assessing what might be learned from the contexts in which this emerged. Before we do this, we outline key features of the research context.

**Ethics Regulation in English Local Government**

The ethical framework for local government in England has been the product of considerable contestation, as the preceding, comparatively informal approach to ethics (Doig and Skelcher 2001) was overlain by national arrangements set out under the Local Government Act of 2000 (part III). The act required all local councils to introduce a model code of conduct that all councillors had to sign, to establish a register of members’ interests, and to set up local standards committees. The new arrangements invested authority in “independence” from local politics, as local standards committees had independent chairs and two new central bodies were established—the Standards Board for England (renamed Standards for England in 2009) and the Adjudication Panel for England.

These measures can be seen as creating a highly centralized system of surveillance and control of local government by central government. Among the factors driving these changes, the government needed to respond to high-profile examples of misconduct in councils controlled by the Labour Party and therefore needed to be seen to be “putting houses in order.” The measures also reflected a belief that only an “independent” system could promote public confidence in local government (Macaulay and Lawton 2006a), a facet of more
A widely held view that councillors should not be corrupt (under the ethical framework (see table 1). The code embraces the very breadth of good governance principles brought within the ambit such regulatory practices was arguably made more difficult by the backlog of complaints under the code of conduct and those that had experienced a suspicion of corruption (centering on the registration and declaration of interests). Moreover, the government sought to regulate broader categories of behavior, such as treating others with respect and not bringing the local authority into disrepute, which require demarcation from legitimate political argument and tactics.

Table 1 Categories of Misconduct under the Local Government Act of 2000

<table>
<thead>
<tr>
<th>10 Principles of Public Life (local government)</th>
<th>Categories of Misconduct (part of the code)</th>
</tr>
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<tbody>
<tr>
<td>Selflessness</td>
<td>• You must not use your position to improperly confer an advantage or disadvantage for yourself or any other person (Part 1 6[a])</td>
</tr>
<tr>
<td></td>
<td>• Prejudicial interest—seeking to improperly influence (Part 2 12[1][c])</td>
</tr>
<tr>
<td></td>
<td>• Prejudicial interest—attended meeting for purposes not available to the public (Part 2 12[2])</td>
</tr>
<tr>
<td>Honesty and integrity</td>
<td>• You must not conduct yourself in a manner which could bring your authority into disrepute (Part 1 5)</td>
</tr>
<tr>
<td>Objectivity</td>
<td>• Personal interest—failure to declare (Part 2 9[1])</td>
</tr>
<tr>
<td>Accountability</td>
<td>• Prejudicial interest—failure to withdraw (Part 2 12[1][a])</td>
</tr>
<tr>
<td>Openness</td>
<td>• Failure to register interests (Part 3 13[1])</td>
</tr>
<tr>
<td>Personal judgement</td>
<td>• You must treat others with respect (Part 1 3[1])</td>
</tr>
<tr>
<td>Respect for others</td>
<td>• You must not bully any person (Part 1 3[2][b])</td>
</tr>
<tr>
<td></td>
<td>• You must not do anything which could cause your authority to breach equality laws (Part 1 3[2][a])</td>
</tr>
<tr>
<td>Duty to uphold the law</td>
<td>• You must not intimidate or threaten to intimidate any person who is likely to be involved in a complaint (Part 1 3[2][c])</td>
</tr>
<tr>
<td>Stewardship</td>
<td>• You must not compromise or attempt to compromise the impartiality of anyone who works for the authority (Part 1 3[2][d])</td>
</tr>
<tr>
<td>Leadership</td>
<td>• You must not disclose confidential information (Part 1 4[a])</td>
</tr>
<tr>
<td></td>
<td>• You must only use the authority's resources in accordance with it requirements and must not use the authority's resources for political purposes (Part 1 6[b])</td>
</tr>
</tbody>
</table>

Source: Standards Board for England (2007) and categories of misconduct that applied at that time.

enduring mistrust that characterizes relationships between local and central government (Newman 2001). The ethical framework could also be seen as exemplifying wider political and managerial judgments integral to Labour’s overarching local government modernization agenda: that “transformational change is . . . not only self-evidently necessary but also achievable” (Geddes and Martin 2000, 392) and that such change can be achieved from the center through rational planning around universal values.

Such judgments were contested by those arguing that English local government has generally displayed relatively good conduct and low levels of corruption and thus should retain prime responsibility for regulating councillors’ behavior (CSPL 1997; West and Davis 2011). Initially, the Standards Board took on the primary role in assessing and investigating complaints, but the backlog of complaints prompted some decentralization of these arrangements. The 2008 Local Government and Public Involvement in Health Act passed the role of assessing, investigating, and taking appropriate action on most complaints from the Standards Board to local standards committees. The Standards Board became a “strategic regulator,” monitoring and advising on the overall implementation of the framework and only investigating the most serious cases.

Seeking to promote good conduct among local councillors through such regulatory practices was arguably made more difficult by the breadth of good governance principles brought within the ambit of the ethical framework (see table 1). The code embraces the very widely held view that councillors should not be corrupt (under the principles of selflessness and openness, for example), but it proved more difficult to specify and police the practices required to avoid a suspicion of corruption (centering on the registration and declaration of interests). Moreover, the government sought to regulate broader categories of behavior, such as treating others with respect and not bringing the local authority into disrepute, which require demarcation from legitimate political argument and tactics.

One can begin to observe the tendency, noted earlier, of ethics regulation to expand and become more complex as government seeks to define and promote good conduct across the multiplicity of contexts and situations in which councillors might find themselves (CSPL 1997; West and Davis 2011). Thus, abstract principles such as “selflessness” or “respect for others” were decomposed into an ever-evolving and expanding suite of guidance.

Local reactions to ethics regulation may also have been shaped by its intersection with another centrally driven component of New Labour’s local government reforms: the requirement that all councils “modernize” their political management arrangements. Here, the aim was to make local governance more effective by creating more accountable and streamlined forms of decision making, with powers to be concentrated in either cabinets of executive members or directly elected mayors (Greasley and Stoker 2008). These new structures underpin moves to create a more professionalized, managerial ethos in the political governance of local councils (Entwistle, Martin, and Enticott 2005; Newman 2001) but led to conflict where councillors’ traditional roles and identities were challenged. In some councils, those outside cabinet structures felt that these changes reduced the opportunity for political debate and their chance to influence decision making. As executive members made the decisions, they felt “out of the loop” (Davis and Geddes 2000; Fenwick, Elcock, and Lilley 2003). These frustrations and a sense of voicelessness were to have consequences for ethics regulation, as our research shows.

**Methodology**

This article draws from interviews conducted with 119 individuals across nine case studies of English councils between June and October 2008. The interviews were semistructured and designed to elicit views on the practice of ethics regulation in each council. We conducted interviews with those who had formal roles in operationalizing the ethical framework: local authority chief executives, monitoring officers (responsible for overseeing the operation of the ethical framework), and members of local standards committees, which included both elected and independent representatives. We also interviewed those who were subject to the ethical framework—council and party group leaders, other elected members, and parish councils—as well as individuals with informed views on how patterns of conduct may have changed—other senior officers, representatives from other local public bodies that worked with councils, and journalists with experience covering local government. Finally, we examined the number of complaints in each case study and interviewed councillors who were “serial offenders” under the ethical framework.

We selected case studies that met a range of criteria (see table 2). In particular, we chose councils that had experienced many complaints under the code of conduct and those that had experienced
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Few. Political context was also a consideration (Fording, Miller, and Patton 2003), so we selected councils controlled by different parties, both those that exemplified stability of political control and those that had experienced recent changes. In order to examine whether implementation of the ethical framework was affected by the quality of the management more widely, we included councils that had scored “excellent” or “good” in the Audit Commission’s Comprehensive Performance Assessment (CPA), as well as those that had fared less well.

In our interviews, we encouraged respondents to talk about the nature of politics in their local authority, whether they felt there were issues with conduct, and what caused and perpetuated those behaviors, without imposing the prior assumption that ethics regulation may be a significant factor. Interviewees were invited to talk about misconduct incidents, their causes, and how they were dealt with. The number of interviews per case study (15 on average) allowed for patterns to emerge. The analysis presented here draws heavily on these accounts. First, we outline in broad terms the ways in which the ethical framework shapes the conduct of councillors in the direction intended by its proponents, before focusing more closely on ways in which the framework has been resisted or subverted.

### The Shaping of Conduct

Our research supports previous studies in finding that the introduction of the ethical framework improved the conduct of councillors. Cross-national surveys suggest that there has been a reduction in serious forms of misconduct pertaining to corruption (BMG 2007, 2008), and we encountered similar perceptions. The causal mechanisms proffered echo Foucault’s analysis in terms of the ways in which individuals’ conduct is “shaped” according to certain norms. For example, the leader of a well-performing council with few issues of misconduct (case study A) suggested that any effect of the ethical framework on the conduct of councillors was “unconscious.” The framework was not something that members actually considered on a day-to-day basis, but, as the monitoring officer from the same council said, although “they keep forgetting the rules . . . that’s not to say they don’t apply them . . . and they’re aware of it [the ethical framework].” Complaints against councillors were also low in case study B, an urban borough with a diverse population and pockets of deprivation. Here, efforts to shape conduct were much more pervasive, explicit, and vigorous, with training in the ethical framework being mandatory and closely policed:

[W]e bang on about [the ethical framework] and keep the profile high all the time. So every year [the councillors] get their annual sheep-dip of the member code, whether they like it or not. (monitoring officer, case study B)

In such councils, good conduct as specified in the ethical framework was identified as part of the local ethos. This was exemplified in case study A, in which the leader of the council described councillors in the following way:

I would say that the large majority of the members . . . are retired. They’ve come into it in my view for the right reasons. They’re not on the make any more. . . . I know it sounds a bit smug and I don’t mean it that way, but [they] are actually here to serve a purpose . . . As far as I’m aware they’re coming to make a difference, but not to make a difference to themselves.

Selflessness and impartiality are thus represented as intrinsic to councillors’ individual identity in this authority. In case study B, this identity was described as more shared and corporate, with both officers and councillors explaining the council’s reputation of “doing good by doing right” (chief executive). A councillor suggested that he saw his role as essentially achieving the best outcome for the council as a whole, even to the extent of explaining tough, distributive decisions that could not benefit everybody (councillor, case study B). As well as normalizing conduct, the national authority of the ethical framework was deployed by key actors in case studies A and B in orchestrating the disqualification of councillors engaged in poor conduct (flouting planning regulations, social security fraud), but the fact that such councils were acknowledged as exemplifying good conduct also made it clear to the accused that they had transgressed important norms. Thus, their resignation was secured without full investigation and adjudication.

### Table 2: Contextual Information on the Nine Case Study Councils

<table>
<thead>
<tr>
<th>Case Study</th>
<th>Thumbnail Sketch</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>A relatively affluent district in southern England where most residents enjoy a high quality of life. The council has achieved “excellent” CPA scores and has been proactive in helping parishes implement the ethical framework. The district has experienced very few cases under the code of conduct; a few have arisen at the parish level.</td>
</tr>
<tr>
<td>B</td>
<td>A London borough in a socially diverse part of the capital with pockets of affluence and deprivation. The council has experienced “excellent” CPA scores and has been proactive in its approach to ethical governance. The borough has experienced very few cases under the code of conduct.</td>
</tr>
<tr>
<td>C</td>
<td>A small district in the Midlands in a relatively deprived area where traditional industries have declined. The council has improved its CPA score over time (to “good” most recently). There have been a large number of complaints under the code of conduct, most of them among members and between officers and members.</td>
</tr>
<tr>
<td>D</td>
<td>A relatively affluent and fast-expanding district in southern England with a largely rural area. The council has received “fair” CPA scores but has experienced problems with its corporate governance, including a large number of complaints under the code of conduct, most of them among members and between officers and members.</td>
</tr>
<tr>
<td>E</td>
<td>A unitary council in the north of England that covers a largely rural area with an affluent population. The council has achieved “excellent” CPA scores and few complaints under the code. The large majority of complaints come from the parish councils in the area.</td>
</tr>
<tr>
<td>F</td>
<td>A largely urban unitary authority in the north of England serving a population that is economically and ethnically diverse. The council has achieved a four-star performance score in the CPA and has generated a moderate number of complaints under the code of conduct.</td>
</tr>
<tr>
<td>G</td>
<td>A unitary council in southern England with a mostly affluent population. The council has recorded “good” CPA scores and has generated a moderate number of complaints under the code of conduct, though more so from among its parishes.</td>
</tr>
<tr>
<td>H</td>
<td>A small district council in the Midlands with an affluent population. The council has recorded “poor” CPA scores and generated a large number of complaints about misconduct under the code, most of them by members against other members.</td>
</tr>
<tr>
<td>I</td>
<td>A socially diverse and, in places, very deprived metropolitan area in the north of England. The council has achieved “poor”/“fair” CPA scores but neither a large number nor a consistent pattern of complaints under the ethical framework. A few of these cases involved unlawful behavior.</td>
</tr>
</tbody>
</table>
The ethical framework also seemed to be operationalized most effectively when the identities that it fostered were already strongly reflected in political practices. Case study B is one example: interviewees identified their council as a proactive adopter of New Labour modernizing policies. Another is case study G, in which the council was a product of a relatively recent reorganization (1996). This replaced the former, smaller district councils, with their strong attachment to place-based communities and a reputation of bullying, with a larger council in which politics was said to be more detached and professionalized. Key officers and councillors already felt themselves to be displaying good conduct consistent with a “modernizing” local authority. This council provided good services and produced low levels of misconduct.

Our findings suggest that a culture of ethical behavior consistent with the code was already developed, or was in the process of being developed, within some local councils and that the various activities—such as training—acted to reinforce a prevailing ethos rather than coercing it. However, this has not been the experience of ethics regulation everywhere. Evidence suggests that monitoring officers believe that the ethical framework has exerted a positive effect on conduct, but others, notably, councillors outside cabinet structures, feel that standards of conduct have remained the same or even deteriorated (BMG 2008). It appears that people who are “inside” the ethical framework, with some capacity to influence its implementation, appreciate it more than those who are subject to it; it is appreciated least by those who perceive themselves to have been marginalized by local government modernization. Impacts also differed markedly between our case studies. In some councils, changing the prevailing norms of conduct proved difficult because of the institutionalization of certain behaviors (Doig and Skelcher 2001). We found councillors resisting the ethical framework in a variety of ways, but also evidence of its deliberate subversion.

Resistance to Identities
As discussed earlier, modern forms of discipline (in a Foucauldian sense) are not simply about domination but also subjectification, yet it is this very “process . . . through which individuals are regulated [that] also provide[s] the basis from which resistance to such government can be articulated” (McNay 1994, 123). Our research supports this suggestion. We found resistance to the identities being placed on councillors—that they should be detached from their communities and primarily loyal to the council as a collective entity. However, some individuals sought not only to resist what they saw as the overbearing imposition of norms but also, in some instances, to capitalize on this politically by asserting their own independence and individuality. Several councillors pointed out that they had been elected by their local communities as their representative and thus should act with this conception of the public interest in mind—even if this meant behaving in ways that would be classed as misconduct under the ethical framework. Some politicians resented the role of appointed independent members of standards committees making judgments about their behavior. In case study C, a deprived former mining area, the member of the public chairing the committee explained that “at the first meeting, one of the councillors immediately said they couldn’t stay long so all the rest did the same. They weren’t really interested.” She concluded from this and other experiences that the councillors disliked having independents sitting on a council committee.

These identities and affiliations shaped the extent to which the ethical framework—as a series of normalizing and disciplinary practices—actually exerted any influence. In case study C, traditional party alignments had been in decline. One interviewee explained that some councillors had been reported to the Standards Board on a number of occasions, but “[t]heir attitude to life, which is negative and aggressive, will not be changed by the code of conduct. They don’t respect it. The ethical framework has made no difference to them” (councillor, case study C). One of the “accused” claimed that he had been told that he was being suspended because he was damaging the public perception of the council, but he argued that the public was totally behind him. He pointed to people coming up to him in social situations to express their support as evidence for this position and the fact that he continued to be reelected: “I’m a man of honour. My standards are far higher than those in the council.” In case study D, a district council in an affluent part of rural southern England, the council lacks a significant urban focus or spatial identity. In this context, representing village interests takes precedence, and some councillors give more weight to whether they get reelected than ethics regulation.

This resistance was observed in the face of disciplinary sanctions, which included the provision of training on the code of conduct and suspensions for misconduct:

You’ve got people that are quite willing to take on advice and listen and take on the training. People that naturally just respond to it. And I suppose we’ve got other councillors who were more antagonistic towards it. So I think initially probably they didn’t take on board the training. It’s almost like they weren’t interested in listening.

deputy monitoring officer, case study C

One sphere in which it has proved difficult to translate ethical principles into consistent action is processes for registering and declaring interests, especially at the parish level, which is the lowest tier of local government (Macaulay and Lawton 2006b). Viewed from a governance perspective, this might be seen as essentially an issue of learning the new demarcations of acceptable conduct—of councillors registering their personal interests correctly, then recognizing when they may have a personal and/or prejudicial interest that would prevent them from taking part in a particular council decision. This is a sphere in which the Standards Board issued additional guidance, and the extent of the problem diminished over time. However, the difficulties arising from this part of the code were not simply attributable to a failure to learn or to councillors deliberately using their position to promote a personal interest. Rather, some councillors had difficulty conforming to the idea that being a councillor means “abstracting” oneself from interests that tie them to particular places, issues, and social groups when they see...
representing those interests as intrinsic to their identity as a councillor. One of our case studies, in particular, faced this situation, where the council’s reputation on ethical issues was affected by poor levels of conduct at the parish level. The monitoring officer reflected,

We’ve had difficulties with a particular parish, a particular councillor of [name of parish] who doesn’t seem to understand what declarations of interest mean. [It’s] like an ingrained sort of refusal to accept the code . . . they say, “well you know we can’t possibly operate like that because everybody in this . . . it’s such a small place everybody knows everybody else” . . . They think that it’s almost optional for them. (case study E)

This problematizing of the ability of councillors to act on behalf of what they see as their interests is one way in which resistance to the ethical framework reflects conflicting interpretations of good conduct for politicians. We now turn to ways in which resistance was connected to the reorganization of local politics by central government. In line with Philp’s (2001) observations, this can entail not just explicit rejection of the rules but also their tactical deployment.

Subversion and the Exercise of Power

The potential for the code of conduct to be subverted by councillors—that is, to use it for their own ends rather than ensuring compliance with a set of standards—materialized in some of our case studies (see also Macaulay and Lawton 2006a). In some councils, it was widely perceived that councillors made misconduct allegations about political opponents, which were often viewed dismissively as little more than a playing out of “tit-for-tat” personal or political animosities. Thus, for example, a councillor told us that “the code of conduct offers people the ideal way of leveling scores” (case study D). In case study F, a northern urban council with a record of good management, the leader of the council complained that the ethical framework has “given weapons to people to cause mischief where mischief shouldn’t really be made.”

Rather than dismissing such behavior as simply aberrant, if we view the complaints system from a Foucauldian perspective as a “relationship of power” (Foucault 1982)—as a mode of action that acts on the present or possible future actions of others—we can begin to see how some complainants have sought to influence the potential future actions of those they have complained about. According to some interviewees, ethics regulation was perceived as being used by those in power to curtail the political activities of others, not just between local councillors but also practiced by senior officers:

The monitoring officer is not averse to threatening . . . people that they could be in breach of the code of conduct if they aren’t very careful. And you think . . . well I refuse to be cowed by all this, but it’s very bad. And again of course it does nothing whatever to enhance the reputation of the code of conduct . . . because you think it’s just there as a big stick to be used against anyone who dares ask tough questions. (counsellor, case study D)

What might be presented by one person as a helpful reminder of the rules is interpreted by another as a “threat.” Councillors in other case studies, too, expressed concern at the ethical framework being used to provide a system of control, curtailing their freedom to question or challenge officers by categorizing such conduct as “bullying” or “bringing the council into disrepute.”

An unexpected finding of the research was that so many interviewees related the incidence of misconduct problems or complaints to wider changes in the political management arrangements and the resulting reallocation of power. Case study D had a long tradition of independent councillors (i.e., of councillors that were not members of political parties), but this shifted throughout the 1980s and 1990s to a situation in which independents were just one part of a multiparty government. What brought issues of conduct to a head was the end of the long tradition of political parties and independents being represented proportionately on committees. This was replaced by a “modernized” cabinet system, which was constituted solely by members of the dominant party. In this context, misconduct complaints proliferated, and it was suggested that the ethical framework provided a further means by which the majority group could curtail the influence of minority groups and individuals: “that group is now starting to use the code of conduct . . . to keep people in line if they displeasure it” (counsellor, case study D).

This was not the only dynamic at work. In some of our cases, we encountered the suggestion that using the code to make complaints provided a way of ensuring that the voices of those members who believed themselves to be disempowered were heard by the ruling group (see also Smulian 2009). Sometimes this was characterized in dismissive terms, for example: “I think they use the code of conduct occasionally as an opportunity to flex their muscles and to cause some disruption” (chair of standards committee, case study H). But others, and not just the perpetrators, recognized the rationale:

They [independent members] have realised that the way to shall we say force co-operation from people who don’t have any other control is to challenge them through the standards. And they’re using standards as a weapon . . . Nobody likes having to explain themselves in great detail and depth, which is what the standards committee is looking at; “why did you do that?” “what’s happened here?” So they use it as an alternative means of debate, if you want to put it that way. And good luck to them. It’s very clever. (counsellor, standards committee member, case study C)

As Levi (1997) suggests, it is entirely possible for individual acts of non-compliance or subversion of the rules to result in changes in both policy and institutional arrangements. Not only are the powerful forced to account for themselves, as in the foregoing quote, but also the “misuse” of the ethical framework complained about in case study C resulted in the constitution being changed to allow more debate in council.

In some instances, the subversion of ethics regulation also appears to be designed to attract and channel public attention. For those
without conventional means of exercising influence, some form of
denunciation of those in power offers a simple device for attracting
attention and undermining authority (Dibben and Bartlett 2001):
in Scott’s (1985) terms, it might be seen as a “weapon of the weak.”
The existence of the ethical framework has allowed its deployment as a “scandal weapon” (Belzak 2008)—a means of discrediting
opponents through recourse to the moral authority of a code of
conduct and triggering assessment and investigation processes, all
of which are likely to attract media attention. For example, in case
study H, a small district council in an affluent area but with a long
history of member-to-member complaints, we were told by the
leader of the opposition that he had carefully examined the register
of members’ interests in council meetings to identify scope for mak-
ing complaints. This is a pointed illustration of how the practices of
ethics regulation, in problematizing categories of conduct and making
them actionable, can then be used for unintended purposes.

There are links here to our earlier discussion of political identities
concerning the importance of councillors as public figures. There is
very little public knowledge or understanding of the role of coun-
cillors in England (Councillors Commission 2007), which might
explain why some councillors are prone to make more noise in order
to raise their own profiles and make their work more obvious to the
public. For example, one councillor explained that “there was a
time when I felt that unless you’d had three or four complaints
made against you, you could hardly call yourself a local politician
of any standing” (councillor, case study H). In one council (case
study C), we found comparatively little media coverage of standards
issues, yet there was a history of contentious behavior that violated
the rules of the ethical framework. Respondents suggested that there
was almost an escalation of poor behavior (inappropriate language
in this case) in a bid to be complained about. Again, we see that for
some councillors, placing themselves outside the code of conduct
became an element of their political identity: “There is no shame in
being taken to the Standards Board anymore—it is like a badge of
honor” (councillor, case study C).

Conclusions

Our findings provide a vivid illustration of the diversity of effects that
ethics regulation can exert when applied to politicians and the merits
of using Foucauldian ideas to interpret them.

The ethical framework for local government in England brought together an array of technolo-
gies of government and the self to encourage the alignment of behavior with particular
norms. While there is evidence that ethics regulation served to promote and reinforce good
governance in some councils, our analysis also shows the considerable scope for resistance, both to the political identity of a councillor embodied in the code and through the use of ethics regulation practices to achieve political
goals. Three sets of findings follow from these patterns of resistance.

First, our research encountered very little
tacitly drew on the social power of its misconduct categories in their
denunciation of others. Moreover, the councillors who were subject
to complaints rarely saw themselves as unethical; often, they simply
appealed to other legitimating processes. However, a Foucauldian
perspective alerts us to the ways in which the governmental practices
designed to align behavior with these values can still be subject to
intense dispute, even if the broad moral code is relatively unchal-
genged (Rabinow 1984), with the difficulty of specifying the
operational meaning of these values being both a cause and effect of
conflict.

Our second set of findings is that the appropriation of the ethical
framework to influence the actions of others was not, as its
proponents might have hoped, confined to those seeking to
maintain good conduct. We also found that dominant individuals
or groups used the ethical framework to preserve their positions,
suppress dissenting voices, and damage challengers. An important
pattern is that (mis)use of the ethical framework was often linked
to wider tensions with New Labour’s political modernization
of local government, designed to achieve clear lines of accountability and executive power. Those who perceived themselves as marginalized by this concentration of power deliberately used the
standards system to exercise voice. This is a clear illustration of
the potentially contradictory dimensions of “good governance,”
not all of which are contained within ethical governance frame-
works, and a reminder to researchers and practitioners to be alert
to the side effects of ethical governance reforms and what they
might reveal.

These patterns inform our third finding: that the challenges and
repercussions of seeking to change political conduct using codified
conceptions of good conduct can render ethics regulation rather
unstable. Indeed, mounting resentment reflecting the types of prob-
lems that we observed in our research—around perceived restric-
tions to members’ representative roles, the usurping of the electoral
mandate, and the “encouragement of vexatious complaints”—
combined with wider dissatisfaction about the complexity and
bureaucracy of the ethical framework to create a wider network of
opposition within local government and beyond. This culminated in
the Conservatives and Liberal Democrats going into the May 2010
general election with a promise to abolish the
ethical framework; the “central imposition” of the ethical framework was just one discourse
of opposition (axing unnecessary agencies to cut public expenditure was another), but abo-
lition has led to a scalar rebalancing of the formal practices by which good conduct in local
politics is to be determined and achieved. National prescription, codes, and procedures
have become minimal, as more faith is placed in electoral accountability and the fail-safe of
the criminal justice system.

Our findings have wider implications for the
project of ethics regulation, especially for reg-
ulating the conduct of politics and our expec-
tations of what such enterprises could achieve. As we have seen,
politicians routinely rationalize their actions through a number of
relationships—to party, constituency, local communities, or the

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council as an organization—not just through formalized codes of conduct. It is this array of legitimating norms at work that affects the power of ethics regulation as a driver of good conduct, as the priority between different orders of worth is never fully settled (West and Davis 2011). Debates about political conduct (and political structures) are invariably caught in “the agonistic relation between liberty and government” (Rose 1996, 62), in which the tools and practices of ethics regulation—rather than being seen as morally neutral—can themselves be subjected to ethical examination in terms of democracy, freedom, and privacy (Brey 2000).

Overall, there is merit in seeing ethics regulation as constitutive of struggles to define the values of civilized political conduct and good governance more widely, in which practitioners and researchers should be interested in the learning going on rather than simply linear, deterministic effects. Our research also highlights the contextually embedded nature of these processes, as the centralized, codified practices of ethics regulation encountered “contrasting sets of political values and priorities at local level,” including “different approaches to dealing with the tensions” (Geddes and Martin 2000, 386). While our research did not seek to provide a statistical analysis of the contextual determinants of conduct problems—this could be the subject of further research—the cases do feature a number of recurring themes: a poor corporate capacity for delivering services and antagonisms arising from concerns about shifting political representation and control are both associated with councillor misconduct issues.

We must add some caveats to our findings. Although we have focused on relatively overt patterns of resistance and subversion of ethics regulation, one cannot necessarily infer that councils experiencing few complaints under the ethical framework are expressing deep support for it. As Helin and Säntström (2010) note, apparent compliance can coexist with downplaying the significance of ethics regulation. In this light, as national prescriptions are rolled back across England, it would be revealing to examine which practices local councils chose to retain from their experiences with the ethical framework (e.g., local standards committees). Although we have examined a diversity of councils through our case studies and interviewed individuals operating the ethical framework and those subjected to it, we acknowledge that we focused only on one part of the wider set of social relations that constitute local governance. Subsequent research may do more to understand the position of ex-councillors, those dissuaded from standing as councillors, and the practices of citizen-activists.

Finally, we do not wish to imply that all misconduct and misuse of the ethical framework represents some kind of “moral heroism,” based on positive, public-spirited intentions. Even allowing for subjective interpretation, many cases hinge simply on mistakes or errors of judgment or real instances of bullying and the promotion of personal interests. The language is not entirely neutral here. There is a tendency to romanticize “resistance” and to equate it with responses to oppressive, myopic modes of government (Scott 1985), yet it does not inherently serve the ends of democracy or fairness (Sharp et al. 2000). Foucault himself, of course, was more ethically neutral about his analytical approach, but using his approach to trace how government is practiced may better inform debates about ethics regulation than further abstract refinement of the ideals of good governance.

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