

cut the clause

Teachers should not have to promote gay rights

Why the homosexuality clause of the draft professional code should be scrapped



the code of practice is

Summary

When it comes to professional values, teachers know they must show proper and impartial respect for everyone they teach. Teaching has to be adapted to the distinctive needs and capacities of each learner. Teachers fully accept that educational opportunities must be open to all pupils subject only to their potential.

Teachers also recognise that for learning to take place there must be order and discipline. Children can be cruel to other children, so teachers must seek to eliminate all forms of bullying.

In one sense it goes without saying that all teachers should hold to these values, but the General Teaching Council for Wales (the GTCW), has decided to put them in writing in a professional code.

With one very serious exception the draft code will attract the widespread support of teachers and the public.

In the 'General Principles' section of the code the GTCW has decided to go well beyond equal opportunities. It is not enough to treat all pupils impartially. It is not enough to respect young people as people. Now teachers must respect "rights and needs" based on sexual orientation.

The term "respect" is no longer attached to the person, but to the behaviour.

Respecting pupils' right to believe is something that teachers do all the time. Teachers can respect pupils' freedom and autonomy without having to agree with them. But the GTCW's code does not leave matters there. Under the code teachers will be pressurised into personally embracing the belief that different types of sexual behaviour are equivalent.

The GTCW says the code "will be a key document in setting out the high standards expected by registered teachers".¹ In reading the code's small print of what constitutes "high standards" teachers will find very many things with which they can agree, but they will also find the principle of respecting gay rights.

Some might feel they can place an interpretation on the wording which squares with their conscience. But the influential interpreters of the wording (most particularly those outside the GTCW) are not likely to be so magnanimous.

The code will influence the curriculum, management and policies of schools. The General Principles section of the code marks an important moral shift in education.

It is important that teachers and others concerned with education raise their objections now. It is important to press for changes in the wording. They have until 21 September to raise their concerns with the GTCW. This document aims to help them do this in an intelligent way.



Colin Hart, August 2001

out now for consultation

The new professional regulator

The General Teaching Council for Wales is the new regulator for the teaching profession. The GTCW effectively controls who has the right to teach in state schools in Wales. (There are separate bodies for England and Scotland).

All teachers in state schools have to be registered with the GTCW. Those employed in state schools between October 2000 and February 2001 were automatically registered via their employers.² No registration fees are payable in the first year. The Council will, in due course, determine the level of fee to be paid from October 2001. In the Independent Sector registration is voluntary.

The disciplinary regulations

If an allegation of misconduct or incompetence is proved against a teacher, under regulations passed by Parliament, the GTCW ultimately has the power to strike a teacher off the register. There are also a variety of lesser sanctions. Significantly the GTCW can only act after an employer has already taken action and notified the GTCW.

However, in relation to the General Teaching Council for England, the *Times Educational Supplement* reported that Government ministers are considering a change in the rules to allow a parent to complain directly to the Council. Consultation on the proposal will begin in March 2002.³ Presumably the Welsh GTC could be given the same responsibility.

Issues of child abuse are not dealt with by the GTCW. This continues to be controlled by the Secretary of State for Education and the List 99 procedure.⁴

The code of practice

The GTCW is allowed by law to draw up a professional code laying down standards of professional conduct and practice expected of registered teachers.

This code of practice is now out for consultation. It is called the "Draft Professional Code for Teachers".

The GTCW claims that the code seeks to "set out clear standards of professional conduct and practice to which registered teachers aspire; be a supportive document which assists teachers in their normal working lives; assist in the process of maintaining and raising standards of conduct and practice; enhance the public's perception of teachers; align teaching with other professions; offer guidance to teachers and employers."⁵

In law however, the code has much more force than these statements imply. The law is clear that in disciplinary proceedings the GTCW can take into account the failure of a teacher to comply with the code.⁶

At present the GTCW cannot de-register a teacher solely for breaching the code. It usually only considers the cases of teachers who have already been dismissed for incompetence or misconduct.⁷

Although the GTCW's use of the code in its disciplinary proceedings may appear limited, there are three very important facts to bear in mind:

1. Since the code has legal status it is bound to be used by schools and LEAs. Decisions about the hiring and firing of teachers continue to be taken at school level, with the LEA usually involved in disciplinary hearings. It is inevitable that these hearings will take into account breaches of the code in deciding whether to dismiss or discipline a teacher.
2. The code will also be quoted before Employment Tribunals where cases of unfair dismissal are heard.
3. The Government may change the rules and require the GTCW to enforce the code directly.

The effect of the code will be very much wider than its use in disciplinary cases. It will influence the policies of local authorities, teacher training institutions and the school inspectorate. The

cut the clause

code will end up influencing the policies and curriculum of schools. This should be no surprise since the code was designed to "offer guidance to teachers and employers".⁸

The gay rights clause

So what does the code say? Many aspects are of a very general nature. There is much in the code that will be widely supported by teachers. The real problem is in the General Principles section.

This section states:

"Teachers respect the rights and needs of pupils, colleagues and others with whom they come into professional contact having regard to gender, ethnicity, age, religion, special needs, sexual orientation and linguistic background."

By definition the code defines teachers' professional conduct. This now means that teachers must "respect rights and needs... having regard to... sexual orientation". Many gay activists will interpret respecting sexual orientation as a duty to promote gay rights.

People cannot help their gender, ethnicity, age, special needs or linguistic background. They can

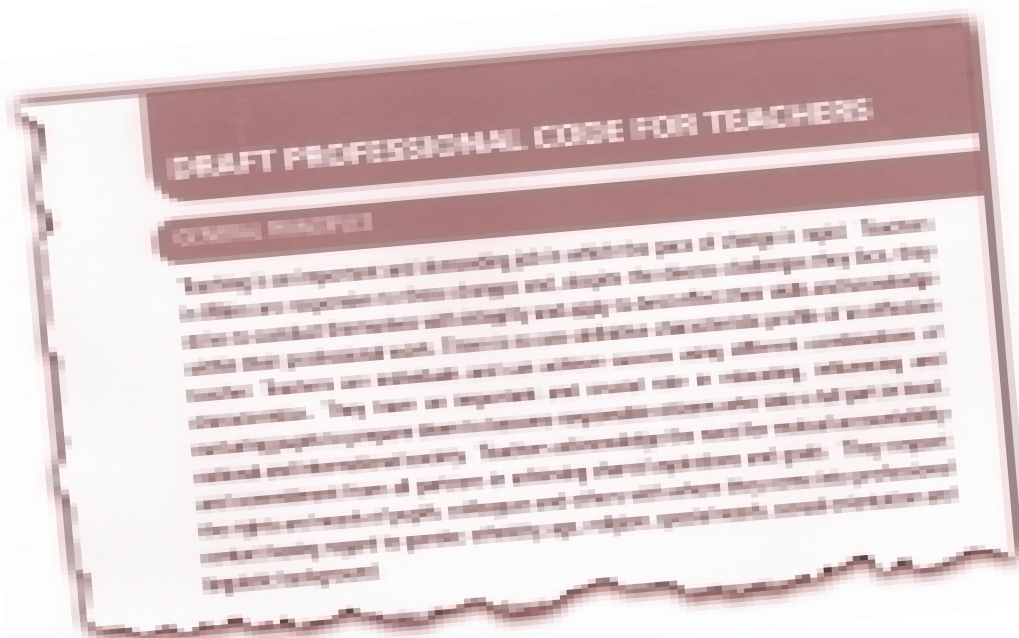
control their sexual behaviour. Differences of ethnicity, age, special needs or linguistic background are not matters of morality, whereas, for most people, differences of sexual behaviour most definitely are.

It is the inclusion of sexual orientation which really stands out; so does the intrusive wording which goes beyond the personal respect of a teacher for a pupil to the acceptance of an ideology.

How the code will influence policy

The professional code is intended to define teacher professionalism. This includes teaching pupils, working with other colleagues and having contact with parents, carers and other agencies.

The code will be appealed to in a whole range of ways. It is intended to influence the profession and that is what it will do. The GTCW will draw up the final version after the consultation period. The Professional Code for Teachers will be introduced from December 2001.



the teaching code is intended to

The code will doubtless be used to influence the equal opportunities policies of schools, teacher training colleges and Estyn (The Office of Her Majesty's Chief Inspector of Schools in Wales).

Some scenarios could include:

- A headteacher and governing body adopting the code as school policy;
- A head of department arguing that the school sex education policy must be changed since it promotes heterosexuality (see below);
- Schools holding in-service courses on the code;
- Questions on the code coming up in job interviews perhaps particularly for head of department or other senior posts;
- Teacher training colleges using the code to assess the suitability of applicants for their courses; or
- School inspectors adopting the code in their inspection of equal opportunities.

How the code will influence sex education

Sex education is an area where gay rights activists have been particularly vocal. At present Section 28 of the 1998 Local Government Act bans the promotion of homosexuality in schools. It does not ban the objective discussion of homosexuality, nor does it prevent a teacher dealing with any form of bullying.

Under the code gay rights groups will be able to argue that (irrespective of Section 28) conventional sex education does not respect their "rights and needs" with regard to their homosexual orientation. They could argue that any teacher who gives preferential treatment to heterosexuality within sex education is discriminating against homosexual pupils. They will demand equal treatment.

Homosexuals could argue that their rights and needs are not being properly respected unless the details of gay sex are covered. To remedy this, they would demand that sex education should include much more explicit detail on homosexual practice.

Lesbian teachers, for example, will argue that they are being discriminated against because teaching on parenting does not cover their claim to be perfectly good role models as parents. They will argue that teaching which claims that children need a mother and a father discriminates against their sexual orientation.

The GTCW may argue that the professional code is not directly binding on teachers so that these sorts of cases will not arise. But this is to ignore the way in which policy makers at school and LEA level and disciplinary bodies (other than the GTCW) will make use of the code.

How the code could influence disciplinary matters

The GTCW cannot discipline a teacher simply for breaking the code. They can only intervene once an employer has dismissed a teacher or a teacher has resigned in circumstances where they face a serious allegation.

This position may change if the Government amends the rules to allow parents to complain directly to the GTCW.

But even if things stay as they are, headteachers and LEAs will use the code in conjunction with a disciplinary action against a teacher. Breaches of the code could be used to compound an existing disciplinary action.

It is inevitable that employers will also cite breaches of the professional code in their evidence before Employment Tribunals. As the Tribunals take the code into account in specific cases, precedents will be created.

define teacher professionalism

going well beyond

All of this is possible without the code being directly binding on teachers. If it were not for the large number of mischievous and false allegations being made against teachers, none of these problems would be as serious as they are. But the GTCW's Professional Code considerably widens the scope for such allegations to be made. And making a defence against a false allegation is a very time consuming and stressful process.

Even where a teacher succeeds in proving their innocence, the stress of it all can lead them to leave the profession.

The following scenarios could arise where considerable stress could be created for a teacher:

- In a classroom discussion on Oscar Wilde, a Christian teacher is asked a direct question by a pupil about whether he believes homosexuality is wrong. The teacher says that it is. The head of department gets to hear of this and, citing the GTCW's professional code, urges the headteacher to reprimand the Christian teacher for failing to respect sexual orientation.
- An LEA employs homosexual outreach workers (several English LEAs already do this). A headteacher refuses to allow them to have access to pupils at the school. The LEA Equal Opportunities Adviser intervenes and seeks to argue that the headteacher has acted in breach of LEA policy and has acted unprofessionally under the General Principles section of the GTCW's Professional Code.
- A health promotion adviser takes a series of sex education lessons. Pupils tell their form teacher that during the lesson the adviser said that there was no difference between gay sex and heterosexual sex. The form teacher disagrees. He tells his pupils that many people in society believe that homosexual practice is wrong. During another lesson the health promotion adviser is told by the pupils that their form teacher disagrees about homosexuality. The form teacher is in his first year of teaching. The

adviser complains to the Deputy Head in charge of teacher induction. The Deputy Head informs the teacher that his induction period is to be extended with a further period of classroom observation because of a complaint about unprofessional attitudes.

- A homosexual teacher is arrested and then convicted for having sex in public toilets. The case becomes public and parents demand the dismissal of the teacher. A gay rights group defends the teacher saying that to dismiss him is an overreaction and that even the Government accepts that the law against sex in public toilets is discriminatory. The headteacher fears taking disciplinary action because he will not be respecting his "rights and needs" as a homosexual. As a headteacher he believes that he will be breaching the professional code and that the LEA might take action against him if he dismisses the teacher.

The GTCW may have no intention of the professional code being used in such cases, but it will be used nonetheless. Despite the code not being directly binding, it can still be used to bring considerable pressure on teachers. And it can be quoted and used by bodies other than the GTCW.

Going well beyond equal opportunities

Christians are happy to go along with equal opportunities in education. It does not matter what the background of a particular child is. Provided the same school rules apply to all, the same opportunities should also apply to all.

But the code goes well beyond this. Teachers don't have to just believe in equal opportunities, they have to "respect the rights and needs of pupils, colleagues and others... having regard to... sexual orientation".

Christians can respect rights and needs based on gender, ethnicity, age, special needs and linguistic background. It is not a moral issue whether you are female, Asian, over 50, partially-sighted or Welsh-speaking.



equal opportunities

The anti-discrimination ground on religion is in practice unlikely to present any problems (see Appendix 1).

The problems come with the grounds of sexual orientation.

Sexual orientation

You do not have to be a Christian to believe that homosexual practice is wrong.

In fact the largest and most detailed study into British sexual attitudes found that 70 per cent of men believed that homosexual acts were always or mostly wrong.⁹ This was the figure for Great Britain as a whole. In Wales the figure was 78.6%.¹⁰

This same study also found that the exclusively homosexual population makes up only 0.3% of men.¹¹ Given this low base, perhaps most teachers will never have met a pupil who claims to be a homosexual.

The world's six main religions (Christianity, Judaism, Islam, Hinduism, Sikhism and Buddhism) all view homosexual practice as wrong.

The concern is that the professional code will in practice discriminate against teachers who believe that homosexual practice is wrong.

There is a further problem: the phrase "sexual orientation" does not distinguish between a celibate person who experiences same-sex attraction and a practising homosexual. Yet for Christians there is a world of difference between the two.

Christians believe that temptation is not wrong, but yielding to it is.

Sexual orientation is a highly contentious moral issue. In effect the GTCW has decided to promote the view that homosexual practice is right and to put pressure on teachers to agree with that view.

Tolerance and Christian belief

Tolerance is the acceptance of people despite differences with them. By definition you cannot tolerate something with which you already agree.

Under the Code people must be respected *because of* their behaviour. But where sexual orientation is concerned it is not a neutral issue - such as eye colour. It is a moral issue.

The Christian belief in tolerance is based on the belief that God loves people in spite of their wrong doing, not because of it.¹²

To say that homosexual rights must be respected is not tolerance of homosexual people; it is intolerance of Christianity.

Christians are not prejudiced against homosexual people *as people*.

Jesus made clear that we are to love our neighbours as ourselves. He told the story of the Good Samaritan to illustrate what he meant by being a good neighbour. Jesus was clear that Christians are to love even those who persecute them.¹³

Christians respect other people because they are made in God's image.¹⁴

Christians do not respect people *because of their immorality*, yet this is what Christian teachers are required to do under the proposed GTCW Code. The wording in the code is clear. It is "rights and needs" based on sexual orientation which have to be respected.

Teachers who believe that homosexual practice is right will be allowed to speak their mind. Not Christian teachers. In politically correct local authorities the code will help create a climate of fear.

The alarming implications for religious liberties

Whatever the GTCW may say compulsion is being used. Teachers in the state sector must register with the GTCW in order to teach. In its Professional Code the GTCW is in effect saying that accepting gay rights is part of teacher professionalism.

It is not enough to provide equality of opportunity. Under the code, teachers must do much more.

Gay rights groups will point to the fact that teachers should "respect the rights and needs of pupils ... having regard to ... sexual orientation".

It is wrong to put pressure on Christian teachers to act against their conscience by forcing them to endorse lifestyles which they do not agree with.

All teachers should have liberty of conscience over which moral lifestyles they respect. For the General Teaching Council to set a professional benchmark that threatens this liberty is draconian and oppressive.

Moreover, it does nothing to promote true equality of opportunity. Professional teachers are more than capable of treating individuals in a fair and reasonable manner without being forced to compromise their conscience as to which moral choices they respect and which they do not.

The GTCW will not advance the professionalism of teaching or ensure equality of opportunity by denying teachers' legitimate liberty of conscience.

The code will help create a climate which will censor discussion about homosexual practice as a moral issue. Perhaps that is what gay rights campaigners want.



alarming implications

Appendix 1 : Could there be conflicts over the religion ground?

The 'General Principles' section of the Professional Code also lays down that teachers should "respect the rights and needs of pupils, colleagues and others with whom they come into professional contact having regard to... religion". Could conflicts arise over religion similar to those that arise with sexual orientation?

Clearly a Christian teacher does not agree with the Muslim faith. He believes it to be wrong, just as Muslims believe that Christians are wrong or Hindus believe that Jews are wrong.

There are specific disagreements with regard to the content of belief. For example Muslims cannot accept that Jesus Christ died on the cross. Only Christians believe in the Trinity.

Christian teachers can fully respect the freedom of people to believe or not to believe. For this reason no Christian can be comfortable with the imposition of Sharia Law in African Countries, for example in areas of Nigeria. But such concerns would be almost universally shared by people in Western Democracies.

Most teachers cannot give "respect" to Sharia law even though it is central to Muslim belief. Some Western Muslims say that Sharia Law is only to apply in a Muslim Country, others say that should only apply to Muslims. But either way for people in the West this is unacceptable.

Having said this, secular humanists have much more of a problem respecting religious beliefs than Christians do.

There are three reasons why the non-Christian faiths are unlikely to use the religion ground in the 'General Principles' section against Christians:

1. Religious believers tend not to be litigious. They understand the importance of religious freedom. When has a legal action ever been launched against someone for saying they believe that a religious faith is wrong? When has a Church ever got in trouble for excluding Buddhists from their membership?
2. In our increasingly secular society, there are very often strong areas of agreement amongst religious believers on moral issues. A teacher who says he is strongly in favour of marriage will be applauded by orthodox Muslims and Sikhs for example.
3. Where the major religions disagree on moral issues, on the whole Western people would side with Christian people. (For example the courts would never accept the application of Sharia Law in defiance of UK law).

But gay rights activists are highly litigious. They have often pursued organisations and employers through the courts.

for religious liberties

Appendix 2: Does the 'General Principles' section protect Christians?

The "General Principles" section of the code states that "rights and needs" with regard to religion are also to be respected. It could be argued that this provides protection for Christian teachers since other teachers should fully respect their religious viewpoint.

Theoretically there may be such cases. Under the code it will be unprofessional to discriminate against teachers just because they are Christians.

But in practice where there is a conflict between the grounds of religion and sexual orientation, religion tends to lose out. In our increasingly secular age it is gay rights protestors who always seem to be fighting legal cases and winning.

The world's six main religions (Christianity, Judaism, Islam, Hinduism, Sikhism and Buddhism) all view homosexual practice as wrong. Yet the code puts all religions on the same level as the right to sexual orientation.

This view that homosexual practice is wrong is widely held by people who are not religious. Only 20% of men believe that homosexual practice is not wrong at all, but 70% of men believe that sex between two men is always or mostly wrong.¹⁵

Gay rights groups have even established rights where none existed. The 1950 European Convention on Human Rights was drawn up at a time when homosexual practice was outlawed in the UK and in most other countries that were signatories. Despite this gay rights activists have recently obtained declarations from the European Court of Human Rights supporting a "right" under the Convention to serve in the armed forces and to engage in group homosexual activity.

The most serious cases are going to involve "a conflict of rights". It is the professional code which is the problem since it mandates challenging the views of those who believe that homosexual practice is wrong.

The Professional Code for Teachers therefore fails to respect religious differences since it requires respect of people *because of their sexual orientation*. To gay rights activists this means combating the view that homosexual practice is wrong.

In the light of all these factors the inclusion of religion in the list of grounds will not protect Christian teachers in any meaningful way.

References

- ¹ Press release 14 July, *Teachers set out their own standards of conduct*, General Teaching Council for Wales. Can be viewed at <http://www.gtcw.org.uk/press7.html>
- ² <http://www.gtcw.org.uk/registration.html> as at 9 July 2001
- ³ *The Times Educational Supplement* 15 June 2001
- ⁴ <http://www.gtcw.org.uk/conduct.html>
- ⁵ The General Teaching Council for Wales, Draft Professional Code for Teachers, Introduction
- ⁶ The Teacher and Higher Education Act 1998, section 5, implemented by Welsh Statutory Instrument 2001 No. 1424, The General Teaching Council for Wales

- ⁷ (Disciplinary Functions) Regulations 2001, para. 7 <http://www.gtcw.org.uk/conduct.html>
- ⁸ The General Teaching Council for Wales, Draft Professional Code for Teachers, Introduction
- ⁹ Johnson A M et al *Sexual Attitudes and Lifestyles* Blackwell Scientific, 1994, page 241
- ¹⁰ *Ibid*, page 475
- ¹¹ *Ibid*, page 209
- ¹² Romans 3:23; 5:8; Psalm 130:3
- ¹³ Matthew 22:37-40; Luke 10:29-37; Matthew 5:43-44
- ¹⁴ Genesis 1:27
- ¹⁵ See Johnson A M et al *Op cit* pages 237, 241



Please act now

Teachers and Governors

The GTCW's consultation period for the proposed professional code ends on 21 September. It is very important that teachers, school governors and parents act now and take part in the consultation.

You can obtain a full copy of the draft professional code for teachers by:

- Contacting the General Teaching Council for Wales on 029 2055 0350 or
- Visiting the GTCW's web site at <http://www.gtcw.org.uk>. The consultation document and feedback response form can be downloaded in PDF or Word format at <http://www.gtcw.org.uk/code.html>

Write now to the GTCW and ask them to protect teachers' liberty of conscience by deleting "sexual orientation" from the 'General Principles' section of the draft code.

You can submit your views by writing freepost to the National Foundation for Educational Research, who are conducting the consultation on behalf of the GTCW. Their address is:

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FREEPOST SWC4293
SWANSEA
SA7 9BF



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