

cut the clause

Teachers should not have to promote gay rights

Why Clause 5 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 Teachers' Council for England (the GTC), 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 Clause 5 of the code the GTC has decided to go well beyond equal opportunities. Under this Clause teachers become both the promoters of rights, including gay rights, and the challengers of stereotyping. It is not enough to treat all pupils impartially. It is not enough to fully respect young people as people. Now teachers must fully respect differences based on sexual orientation.

The term "Fully 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 GTC'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.

All teachers who pay their £23 to register have to sign an undertaking that they will uphold and promote the high standards of the profession. 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 fully respecting and promoting 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 GTC) are not likely to be so magnanimous.

The code will influence the curriculum, management and policies of schools. Clause 5 of the code marks an important moral shift in education.

It is important that teachers raise their objections now. It is important to press for changes in the wording. They have until the 20th July to raise their concerns with the GTC. This document aims to help them do this in an intelligent way.



Colin Hart, July 2001

out now for consultation

The new professional regulator

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

The GTC hopes to regulate the teaching profession in the same way as the General Medical Council regulates doctors.

All teachers in state schools have to be registered with the GTC. In state schools this is done automatically by the employer, but teachers will have to personally pay the annual subscription of £23. 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 GTC ultimately has the power to strike a teacher off the register. There are also a variety of lesser sanctions. Significantly the GTC can only act after an employer has already taken action and notified the GTC.

However the *Times Educational Supplement* has reported that Government ministers are considering a change in the rules to allow a parent to complain directly to the GTC and that consultation on this proposal will begin in March 2002.¹

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

The wider role of the GTC

As well as its disciplinary functions, the GTC has a wider role to advise the government and to promote higher standards of teaching.

Whilst the legislation emphasises that the GTC exists for the benefit of the public, the GTC has sought to take on more of a pro-teacher role. The NUT is unhappy that the GTC describes itself as the "new professional body for teachers" and a "membership organisation".² The NAS/UWT has also voiced concerns. These unions have argued that the GTC is going well beyond its regulatory role.

The code of practice

The GTC 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 statement of values and practice".

The GTC claims that the code is not a prescriptive document. Its purpose is to "celebrate the beliefs, values and attitudes that underlie teacher professionalism".³

But that is not what the law states. The law is clear that in disciplinary proceedings the GTC can take into account the failure of a teacher to comply with the code.⁴ The GTC claims that it would do this in "limited" circumstances.⁵

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

Whatever the GTC says about its limited use of the code in its disciplinary proceedings 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 GTC to enforce the code directly.

The GTC has stated that its code “forms the backcloth to all the Council’s advisory and regulatory work.”⁶

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 OFSTED. The code will end up influencing the policies and curriculum of schools. This should be no surprise since the code was designed to “provide guidance to those within the profession.”⁷

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 Clause 5.

Clause 5 states:

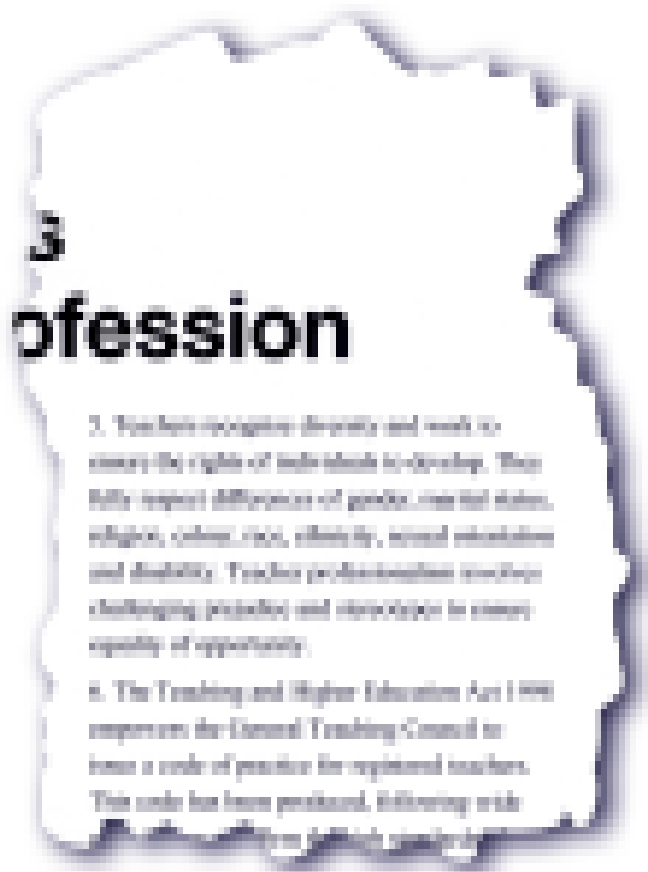
“Teachers recognise diversity and work to ensure the rights of individuals to develop. They fully respect differences of gender, marital status, religion, colour, race, ethnicity, sexual orientation and disability. Teacher professionalism involves challenging prejudice and stereotypes to ensure equality of opportunity.”

By definition the code defines teachers’ professional conduct. This now means “challenging prejudice and stereotypes” on grounds which include sexual orientation. Professional conduct also means that you “fully respect differences” of sexual orientation and seek “to develop” rights of sexual orientation. In other words teachers should promote gay rights.

If the first sentence of Clause 5 was re-worded to apply to the development of *individuals*, the context is one of recognising diversity, respecting differences, and of challenging prejudice and stereotypes. So teachers must work to ensure that individuals develop their sexual orientation.

But the phrase “Teachers recognise diversity and work to ensure the *rights* of individuals to develop” clearly is not the same as “work to ensure that *individuals* develop” or even “work to ensure the *right of individuals* to develop”. As Clause 5 is presently worded the emphasis is on the *rights* being developed, not the *individuals*.

People cannot help their gender, race or disability. They can control their sexual



the teaching code is intended to

behaviour. Differences of gender, race or disability 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.

Some misguided individuals might use the inclusion of "marital status" to counter the promotion of marriage in schools. If so, this would be highly regrettable. But at present the term "marital status" is in no way as highly politicised as the term "sexual orientation". Cohabitees, for example, could argue that they have a marital status of not being married, but they are not marching on the streets demanding more rights.

How the code will influence policy

The professional code is intended to define teacher professionalism. This includes teaching pupils, work with other colleagues and 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 GTC will draw up the final code after the consultation period. The Professional Code for Teachers will be introduced from 1 October 2001.

The code will doubtless be used to influence the equal opportunities policies of schools, teacher training colleges and OFSTED.

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 suitable applicants to their courses; or
- OFSTED adopting the code in its 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 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 they are not being fully 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

define teacher professionalism

going well beyond

claims that children need a mother and a father discriminates against their sexual orientation.

The GTC may argue that the professional code is not directly binding on teachers so that these sort 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 GTC) will make use of the code.

How the code could influence disciplinary matters

The GTC cannot discipline a teacher 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 GTC.

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.

All of this is possible without the code being directly binding on teachers. But 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 GTC'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:

- An LEA employs homosexual outreach workers (several 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 Clause 5 of the GTC's Professional Code.
- During a personal and social education (PSE) lesson there is a discussion about marriage. The teacher is asked for her personal point of view about whether having children outside of marriage is right. The PSE teacher says she believes that marriage is the best basis for raising children. The cohabiting parents of a child in the class get to hear of this and complain to the headteacher that the teacher has acted unprofessionally.
- 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

equal opportunities

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 be discriminating against the teacher's sexual orientation. 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 GTC may have no intention of the professional code being used in such cases, but it will be 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 GTC.

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. Not only do teachers have to believe in equal opportunities, they have to "fully respect the differences of... sexual orientation" and agree that "Teacher professionalism involves challenging prejudice and stereotypes to ensure equality of opportunity".

Christians can fully respect the differences of gender, colour, race, ethnicity and disability. It is not a moral issue whether you are black, female, Asian, deaf or partially sighted. They can challenge prejudice on these grounds.

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 and possibly marital status.

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.⁸

This same study also found that the exclusively homosexual population makes up only 0.3% of men.⁹ 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 GTC has decided to promote the view that homosexual practice is right and to put pressure on teachers to agree with them.

Marital status

Because of the GTC's wording in its professional code it is possible that marital status might also present difficulties.

The Government stated in a Green Paper that marriage is the surest foundation for raising

children.¹⁰ The code will now make it more difficult for teachers to say this in the classroom.

The 1996 Education Act requires that pupils “learn the nature of marriage and its importance for family life and the bringing up of children”. Whilst the legislation allows teachers to promote marriage, the code might frustrate this.¹¹

Christians believe that all sex outside of marriage is wrong.¹² How appalling therefore that under the code Christian teachers must:

- fully respect the practice of sex outside of marriage and
- challenge the prejudice of people who believe that sex outside of marriage is wrong.

Clause 8

Part of this Clause states that “Teachers demonstrate in their own work the characteristics they seek to inspire in pupils and students including curiosity, tolerance, honesty, fairness, respect for diversity and appreciation of cultural and religious differences”.

These words sound reasonable, but they are capable of several interpretations. Read in conjunction with Clause 5 they take on a different meaning: Teachers must so visibly accept homosexuality that pupils themselves are inspired to do the same.

Without Clause 5 it is a different story. It can become an issue of accepting homosexual people (which all Christians must do) rather than accepting homosexual behaviour.

The word “diversity” is not defined. It could mean cultural and religious diversity amongst people. If it means moral diversity then it would be difficult for Christians to respect this, although they would respect the freedom of people to hold different beliefs under the law.

There is much scope for Clause 8 to be used by gay rights groups to press their concerns, but unlike Clause 5, there is at least the clear possibility of a more reasonable interpretation.

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 Clause 8 of the professional code tolerance is a virtue which teachers should inspire in their pupils. The Christian belief in tolerance is based on the belief that God loves people in spite of their wrong doing, not because of it.¹³

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

To say that practising homosexuals must be *fully* respected, their rights *developed* and prejudice against them *challenged* is not tolerance of homosexuality; 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.¹⁴

Christians respect other people because they are made in God's image.¹⁵

Christians do not respect people *because of their immorality*, yet this is what Christian teachers are required to do under the proposed

alarming implications

GTC Code. The wording in the code is clear. It is the differences of sexual orientation which should be fully respected.

Areas of confusion : Prejudice and discrimination

All moral distinctions between right and wrong involve judgements.

Christians believe that homosexual practice is morally wrong because of their faith. At the same time they are under a Christian obligation to love a practising homosexual - not because of his homosexual practice but because of his humanity.

You are now considered prejudiced just for believing that homosexual practice is wrong. It is this sort of prejudice which Christian teachers are expected to combat. In other words Christians are expected to challenge those who believe that homosexual practice is wrong. So Christians must fight against their own beliefs.

The same goes for the word "discrimination". Does a Christian teacher discriminate against homosexuals just because he believes that homosexual practice is wrong?

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

When teachers pay their subscription they sign a form to agree to promote and uphold 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 work to "ensure the rights of individuals to develop", "fully respect differences" of sexual orientation and be committed to "challenging prejudice and stereotypes".

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 GTC 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 its ultimate intention.

for religious liberties



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

Clause 5 the Professional Code also lays down that teachers should “fully respect differences” on the grounds of religion. Could similar conflicts arise over religion 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 “full 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 Clause 5 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?

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

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).

Appendix 2 : Does Clause 5 protect Christians?

Clause 5 states that differences of religion are to be "fully 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.¹⁶

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 Code of Practice therefore fails to respect religious differences since it requires full respect of people *because of their sexual orientation*. It also requires Christian teachers and those of other faiths to challenge prejudice on the grounds of 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 *The Times Educational Supplement* 15 June 2001
- 2 *Loc cit*
- 3 See <http://www.gtce.org.uk/gtcinfo/aimsofcode.asp> and *Professional code for teachers : Draft Statement of values and practice* The General Teaching Council, May 2001, Clause 2
- 4 The General Teaching Council for England (Disciplinary Functions) Regulations 2001, Regulation 7. For the empowering primary legislation see The Teacher and Higher Education Act 1998 section 5
- 5 See <http://www.gtce.org.uk/gtcinfo/aimsofcode.asp>
- 6 *Professional code for teachers, Op cit*, Clause 6
- 7 *Loc cit*
- 8 Johnson A M et al *Sexual Attitudes and Lifestyles* Blackwell Scientific, 1994, page 241
- 9 Johnson A M et al *Op cit* page 209
- 10 Supporting Families (Green Paper), The Home Office, 1998, Introduction paragraph 8
- 11 See 1996 Education Act Section 403 (1A)(a)
- 12 1 Corinthians 6:9; Romans 1:26-27
- 13 Romans 3:23; 5:8; Psalm 130:3
- 14 Matthew 22:37-40; Luke 10:29-37; Matthew 5:43-44
- 15 Genesis 1:27
- 16 See Johnson A M et al *Op cit* pages 237, 241

Please act now

Teachers and Governors

The GTC's consultation period for the proposed professional code ends on 20 July. It is very important that teachers and school governors 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 England on 0870 001 0308 or
- visiting the GTC's website <http://www.gtce.org.uk>.

The consultation document is at:

<http://www.gtce.org.uk/gtcinfo/code.asp>

Copies of the feedback response form can be printed out from:

<http://www.gtce.org.uk/gtcinfo/consultation.asp>

Write now to the GTC now and ask them to protect teachers' liberty of conscience by deleting Clause 5.

You can write freepost to the GTC at:

General Teaching Council
Professional Code for Teachers feedback
FREEPOST MID24272
Birmingham
B4 6BR



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