

**CHRISTIAN CONCERN FOR OUR NATION
AND THE CHRISTIAN LEGAL CENTRE
RESPONSE TO THE SURVEY ON THE
GTCE DRAFT CODE OF
CONDUCT AND PRACTICE
FEBRUARY 2009**

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Section A:

About Us

Christian Concern for our Nation (CCFON) is a policy and legal resource centre that identifies changes in policy and law that will affect Christians. The team of lawyers at CCFON conduct research into and campaign on legislation affecting Christian Freedoms. CCFON serves a mailing list of 25,000 supporters. <http://www.ccfon.org>

CCFON is linked to a sister and separate organisation, the Christian Legal Centre, which takes up cases affecting Christian freedoms. <http://www.christianlegalcentre.com>

Section B:

To answer the first question, please think about the Introduction to the Code (pages 3-5).

B1 After reading the Introduction, how clear is the purpose of the Code?

- Very clear
- Quite clear
- Not very clear
- Not at all clear

B2 Please use the following box to add any further comments about the Introduction to the Code (Optional):

The introduction to the Code correctly expresses the importance of teaching in the lives of children and of society as a whole. It goes on to explain the status of the GTC and its code, yet fails to mention two vitally important aspects of the Code: its purpose and its uses. The introduction does not state that the Code sets minimum standards by which teachers' behaviour is assessed in disciplinary matters, nor that it can be used as a standard by which teachers are judged in disciplinary hearings and in the Employment Tribunal, or that it can form the basis of complaints by members of the public to the GTC, which is only mentioned in Appendix one. The emphasis on the safeguarding of children is to be welcomed.

The penal nature of the Code should not be overlooked. This means that like the current Code, it should concentrate only on teachers and only on what is absolutely necessary for disciplinary matters. The current code correctly restricts itself to "setting the minimum standards for the profession." By its nature, a disciplinary code deals with what is prohibited as opposed to what is prescribed. The current Code can be found at the following link: <http://www.gtce.org.uk/shared/contentlibs/92511/92601/conductcode.pdf>.

The current code states that the "Council's role in respect of professional standards relates both to promoting high standards and ensuring minimum standards." The GTCE website also states very helpfully that the Code of Conduct should not be confused with the *Statement of Professional Values and Practice for Teachers*, which can be found at the following link: http://www.gtce.org.uk/standards/regulation/code_of_conduct.

In our opinion, the draft Code has confused these functions and much of the content of the draft Code should form a separate advisory guide of non-disciplinary status.

In the next question, we ask for your views on the content of the Code.

B3 Please look at the following statements about the Code and indicate how strongly you agree or disagree with them:

Strongly agree/Tend to agree/Neither agree nor disagree/Tend to disagree/Strongly disagree

- The Principles capture the elements of teaching that are most important to me

Strongly disagree

- The Principles cover all the relevant aspects of a teacher's role

Strongly disagree

The questions above do not ask whether or not such matters should be incorporated in a disciplinary code as opposed to professional standards or non-disciplinary guidance. The question should have been phrased in terms of whether or not the content of the Code is appropriate for setting the minimum standards required for disciplining teachers.

The Code sets out the responsibilities that a teacher has to different groups of people with whom they work, both inside and outside the school.

B4 Please indicate how strongly you agree or disagree that the Code expresses clearly a teacher's responsibility to each of the following:

- The responsibilities a teacher has to their colleagues in the school

Strongly disagree

- The responsibilities a teacher has to children and young people

Strongly disagree

- The responsibilities a teacher has to parents

Strongly disagree

- The responsibilities a teacher has to other professionals who work with children and young people

Strongly disagree

- The responsibilities a teacher has to the teaching profession

Strongly disagree

- The responsibility a teacher has to develop her/his own learning and professional development

Strongly disagree

The questions above do not ask whether or not such matters should be incorporated in a disciplinary code as opposed to professional standards or non-disciplinary guidance. The question should have been phrased in terms of whether or not the content of the Code is

appropriate for setting the minimum standards required for disciplining teachers.

B5 Please use this box to add any comments about the content of the Code (Optional):

It is vitally important that teachers' responsibilities to their colleagues, pupils, parents, other professionals, the teaching profession and developing her/his own learning and professional development are based upon advisory and co-operative professional standards and not upon a penal disciplinary code.

This is a disciplinary code for teachers only and should set minimum standards for teachers only. The reference in the introduction and the inclusion in Appendix 3 of the shared values of other professions such as the Nursing and Midwifery Council are inappropriate and should be removed from this Code. Extending this Code beyond minimum standards for teachers will result in penal and totally inappropriate disciplining of teachers. Failure to work in an integrated way with other professions should not be a disciplinary matter, although such an aim of shared values may be supported in an advisory, non-disciplinary professional guide. A teacher's main priority must always be to teach.

Unfortunately, the apparently clear language of the Code conceals many implications that would allow the freedoms and human rights of teachers to be disregarded, which would allow the Code to be used to oppress and victimise Christian teachers.

Whilst teachers have a strong influence on their pupils, it is not a teacher's role or responsibility to act as an equality and diversity officer, promoting equality and diversity norms. Principle 4 is of particular concern because it fails to distinguish between teaching about different religions and beliefs and promoting them. The obligations on teachers to 'proactively challenge discrimination [and] stereotyping' and to 'promote equality and value diversity' could also be taken to imply that all beliefs and lifestyle choices (i.e. marriage, cohabitation and homosexual relationships) are of equal value and should be promoted equally by teachers. This interpretation has been given to similar provisions in the case of other professions (see below, box B7). The Principle fails to distinguish between treating pupils, parents and colleagues of different religions and sexual orientations with respect and value, and actually accepting, adopting and promoting their practices and beliefs to children. We would suggest that the former is the right approach and that the latter is wrong. It should not avoid addressing the question as to whether it approves of the beliefs about Government, society and morality found in the countries and communities that adopt these beliefs. For example, does the Government aspire to the culture found in Iran, Indonesia or India (Muslim, Muslim and Hindu countries respectively)? This Code could be used to promote such values and could be used by parents in requesting that the language of inclusion, equality and diversity is used against teachers to force them to promote such values or face disciplinary proceedings.

In making the promotion of equality and diversity a disciplinary matter, the GTCE has provided the potential for the Code to be used to cause unwarranted allegations by parents and/or governors of another religion. This could easily lead to the victimisation and harassment of Christian teachers in schools. This type of accusation on the grounds of "diversity" has already been brought against teachers: see for example the case of the head

teacher who tried to introduce multi-faith assemblies. This story unfolded despite the fact that section 386(2) of the Education Act 2006 states that the collective worship required in schools in England and Wales by section 385 “shall be wholly or mainly of a broadly Christian character”, see the following article from *The Daily Telegraph*:

<http://www.telegraph.co.uk/news/newstoppers/religion/4623783/Christianity-in-schools-why-were-losing-our-religion.html>.

The current code reads as follows:

Conduct relating to pupils and partners in education

Registered teachers may be found to be guilty of unacceptable professional conduct

Where they:

1. Seriously demean or undermine pupils, their parents, carers or colleagues, or act towards them in a manner which is discriminatory in relation to gender, marital status, religion, belief, colour, race, ethnicity, class, sexual orientation, disability or age

Unacceptable professional conduct

Paragraph 1: Demeaning or discriminatory behaviour

- Swearing at pupils and calling them by offensive names
- Making a racist remark to pupils.

For the current code see:

<http://www.gtce.org.uk/shared/contentlibs/92511/92601/conductcode.pdf> (pp. 4 and 7)

As a matter of policy, it should not be a disciplinary matter to refuse to actively promote other religions and/or other sexual ethics. The current Sex and Relationship Education Guidance issued by the Department for Education and Employment states:

What is sex and relationship education?

9. It is lifelong learning about physical, moral and emotional development. It is about the understanding of the importance of marriage for family life, stable and loving relationships, respect, love and care. It is also about the teaching of sex, sexuality, and sexual health. **It is not about the promotion of sexual orientation or sexual activity—this would be inappropriate teaching.** (Our emphasis).

This is available at: <http://www.dcsf.gov.uk/sreguidance/sexeducation.pdf>.

It is “inappropriate teaching” to promote homosexual practices and it is even more inappropriate that the promotion of equality and diversity in a disciplinary code could be used to sanction or discipline a teacher.

The boundary between promoting equality of opportunity for pupils and not demeaning them regardless of gender, marital status, religion, belief, colour, race, ethnicity, class, sexual orientation, disability or age on one hand, and actively promoting other religions or homosexuality as a matter of equality and diversity policy on the other, is huge. This can be illustrated by the recent public concern at the case of police officers who asked children under the age of 14 to write an essay on homosexuality for a competition prize. It is not the job of the police to act as equality and diversity officers by promoting a particular sexual orientation. Instead, it is their job to enforce the law. For details, please see:

<http://www.express.co.uk/posts/view/84242/Anger-at-police-gay-essay-competition>.

Similarly it is not the job of teachers to promote equality and diversity and act as an equality and diversity officer by promoting a particular sexual orientation; it is their job to teach. A Christian teacher should not even be asked, let alone disciplined for refusing to promote another religion or another sexual orientation that is contrary to his or her core religious beliefs and values

Research findings demonstrate that the best home for the upbringing of children is a stable, loving home with two parents of opposite sexes (see for example: <http://www.christianlegalcentre.com/view.php?id=26>). Teachers should not be required to promote all religions as equal or all lifestyle choices as equal when they tend to have such divergent effects on children.

It is suggested that the Code should adopt an approach that avoids implying that teachers should promote all the various religions and lifestyles. In the interests of honesty and integrity, teachers should be encouraged to present their own views and the reasons for them, whilst allowing pupils to make up their own minds. Children deserve role models with convictions and beliefs that they can stand up for, advocate and compare objectively to other ideas. It is vital that children are taught to evaluate ideas, beliefs and lifestyles and not to ignore the differences of contribution made to society by different groups (in particular, the relative contributions made by married couples and by homosexual couples). Care should be taken in ensuring that the Code does not imply that those who hold that one set of beliefs is true or that one type of family structure is more beneficial than others are in some way narrow-minded, or that they are incapable of valuing the diversity in their pupils and colleagues or in other groups such as parents. Once again, there is a difference between valuing people who hold an opposing viewpoint and agreeing with them.

To place on teachers the obligation of promoting equality between these competing beliefs and lifestyles discriminates indirectly against teachers who hold traditional religious beliefs including all traditional Christians, Orthodox Jews and practising Muslims. This is because religious teachers believe that their own religion is true and the other religions are false, as well as believing that practising a homosexual lifestyle is morally wrong. Thus, instructing religious teachers to promote all beliefs and lifestyles as equivalent is to demand that they act against their conscience, thus discriminating against them by the effect that the Code has on them. This is indirect discrimination because it places religious teachers or teaching applicants at a particular disadvantage when compared to teachers who hold no such religious views: see the Employment Equality (Religion or Belief) Regulations 2003, reg. 3(b). Surely 'valuing diversity' includes valuing the beliefs of the teacher?

Current UK and European legislation does not require teachers or public bodies to promote equality in relation to religion or belief or sexual orientation. To see the equality duties that do exist, click on the following link: <http://www.equalityhumanrights.com/en/forbusinessesandorganisation/educationandtrainingproviders/Pages/Whatshouldeducationprovidersdoto.aspx>). It is strongly suggested that the GTCE should not go beyond the law in seeking to force such a duty on teachers by making such matters a disciplinary offence.

By contrast the Human Rights Act 1998 maintains the rights of individuals to freedom of thought, conscience and religion, speech and expression, and the Employment Equality (Religion or Belief) Regulations 2003 uphold the rights of applicants and employees (including

teachers) not to be discriminated against on grounds of religion or belief. The decisions of the European Court of Human Rights have recognised that this includes the right to proselytise; see *Larissis v. Greece* (Case 140/1996/759/958–960 of 24th February 1998):

<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=Larissis%20%7C%20v.%20%7C%20Greece&sessionid=19366541&skin=hudoc-en> and *Kokkinakis v. Greece* (Application number 14307/88 judgment of 25th May 1993):

<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=Kokkinakis%20%7C%20v.%20%7C%20Greece&sessionid=19366541&skin=hudoc-en>.

It is recognised that teachers' work is emotionally demanding—why add to their burdens the stress of forcing them to suspend their consciences whilst teaching?

As regards the United Kingdom's international obligations, the Universal Declaration of Human Rights confirms the right to 'freedom of thought, conscience and religion' in article 18: <http://www.un.org/Overview/rights.html#a18>. Article 18 of the International Covenant on Civil and Political Rights 1966, (a General Assembly Resolution of the United Nations that was ratified by the UK on 20th August 1976 <http://www.unhchr.ch/pdf/report.pdf>), affirms the right of every person to freedom of thought, conscience and religion and states that this right can be subject only to limits that 'are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.' The Covenant places on national Governments the responsibility for respecting 'the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions' (see: http://www.unhchr.ch/html/menu3/b/a_ccpr.htm).

The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, United Nations General Assembly Resolution 36/55, describes the rights of religious people in great detail: <http://www.un-documents.net/a36r55.htm>. They must not be subject to discrimination: article 2; States are responsible for eliminating discrimination against them: article 4; children have a right to be given religious education in accordance with their parents' wishes and children should not be subjected to education on religion or belief that contravenes the wishes of their parents according to article 5.

It is clear from the UK's international obligations that teachers, parents and pupils enjoy the right to freedom of thought, conscience and religion and that this must be respected unless public safety, public order, health, morals or the fundamental rights and freedoms of others are at stake. It is not clear why any of these grounds should require teachers to promote all religions or why they should be made to promote all forms of lifestyle choice, or why they should be prevented from proselytising when this is done in a sensitive and non-coercive manner.

It is strongly suggested that whilst the Code should require of teachers respect for all people, it should not insist that they promote religions, beliefs or lifestyle choices that conflict with their beliefs, nor should it demand that they promote all such options as equal.

Therefore the core value of promoting equality and diversity in the Code (Principle 4 and in Appendix 2, point 4) should be removed and replaced with the equivalent provisions in the current Code, which are copied above for ease of reference:

http://www.opm.co.uk/gtc/GTCE_draft_code.pdf (see pages 6, 7, 14, and 28). For the current code see:

<http://www.gtce.org.uk/shared/contentlibs/92511/92601/conductcode.pdf> (pp. 4 and 7).

In addition, it is a police officer's responsibility not a teacher's job to uphold the law. A teacher's role is to ensure compliance with the law whilst pupils are under their charge. In our opinion, to avoid any misinterpretation of this phrase in this disciplinary code, this idea should be replaced by the wording in the current code to make it clear that it relates only to a teacher's conviction for a relevant offence. We therefore suggest removing the phrase "uphold the law and" and starting the sentence with simply "maintain standards of behaviour". As a separate bullet point we suggest inserting the wording of the current code as follows:

Section 2

Conviction of a relevant offence

The Council may also take disciplinary action where a registered teacher has been convicted of a relevant criminal offence or has accepted a caution in relation to such an offence.

Criminal offences which have been determined as relevant include:

- Benefit fraud
- Indecent assault
- Inflicting grievous bodily harm
- Manslaughter
- Possession of prohibited firearms and ammunition
- Threatening or disorderly behaviour
- Unlawful wounding.

For the draft Code, see: http://www.opm.co.uk/gtc/GTCE_draft_code.pdf (see page 22).

For the current Code, see:

<http://www.gtce.org.uk/shared/contentlibs/92511/92601/conductcode.pdf> (pp. 5 and 8).

In this question we ask about the way in which the Code is written.

B6 Please look at the following statements about the way in which the Code is written and indicate how strongly you agree or disagree with them:

- The language used in the Code is clear

Strongly disagree

- The tone of the language used in the Code is appropriate

Strongly disagree

B7 Please use the box below to add any comments about the language or tone of the Code (Optional):

The positive tone of the Code is welcomed in principle—affirming as it does good teaching practice and setting out what teachers should do rather than what they should not do. However, what teachers should do, ought to be contained within professional standards and should not form part of a disciplinary code, which by contrast should stipulate what they should not do.

In the current Code the borderline is more clearly and properly illustrated for equality and diversity matters. This is particularly clear in the section regarding Principle 4, where in place of a simple injunction not to discriminate against, 'seriously demean or undermine' others in the current Code, (see page 4 at: http://www.gtce.org.uk/shared/contentlibs/gtc/141488/201088/conduct_code_07.pdf), the draft Code advocates promoting equality and valuing diversity, which clearly oversteps this boundary.

The Code is framed in clear language, but unfortunately includes terms of art that import legal definitions and swathes of case law into its meaning, making it difficult for the lay reader to grasp its full significance or to anticipate its possible uses or misuses. Of particular concern is the requirement in Principle 4 that teachers 'proactively challenge discrimination [and] stereotyping' and 'promote equality and ... diversity'. On its face, such an obligation appears to be acceptable in the ordinary use of such words, whereas in practice such requirements have been interpreted so as to demand that professionals refrain from mentioning their own beliefs at all, or from practising them, forcing them instead to promote the beliefs or lifestyles of other groups contrary to their own consciences. See for example the cases of:

- Caroline Petrie: <http://www.christianlegalcentre.com/view.php?id=680>,
- Gary McFarlane: <http://www.christianlegalcentre.com/view.php?id=669>,
- PC Graham Cogman: <http://www.christianlegalcentre.com/view.php?id=626>,
- Lillian Ladele: <http://www.christian.org.uk/news/20080519/christian-registrar-seeks-conscience-exemption> and
- Eunice and Owen Johns: <http://www.christianlegalcentre.com/view.php?id=264> to name but a few.

The way in which the Code is drafted should not be permitted to imply that teachers are required to promote a moral viewpoint, or beliefs or lifestyles with which they disagree: respecting another's choices and values should not be confused with agreeing with them and being required to advocate them. Allowing the Code to be interpreted in this way would be antithetical to diversity, as it tends towards the promotion of conflicting religious views and the promotion of one kind of 'correct' morality that must then be accepted and condoned by all, such as happened in the Graham Cogman case.

It is regrettable that the Code does not define the terms 'promote', 'proactively challenge', 'stereotyping', 'equality' or 'diversity' as this leaves enormous potential for the Code to be used to bring spurious claims against teachers whose religion or viewpoint on moral issues does not coincide with the views of particular pressure groups or of particular parents. In our opinion this should be reworded in line with the current code.

See further above, box B5, for a discussion of the content of Principle 4.

In the next question, we ask how well the Code achieves its main purposes.

B8 Please look at the following statements about the Code and indicate how strongly you agree or disagree with them:

- The Code provides teachers with a clear indication of expected day-to-day conduct and practice

Strongly disagree

- The Code lays out clearly the sorts of behaviours that fall seriously short of expected standards of conduct and practice and have been referred to, and had action taken against them, by the GTC

Strongly disagree

- The Code helps people to understand the role and responsibilities that teachers have in contributing to the wellbeing of children and young people

Strongly disagree

- The Code helps people to understand the expertise that teachers bring to children and young people's learning

Strongly disagree

The next section asks about two particular parts of the Code.

B9 Please indicate how useful or not you find the following aspects of the Code:

Very useful/Quite useful/Neither useful or not useful/Not very useful/Not at all useful

- The examples in Appendix 2 of instances in which teachers have fallen seriously short of expected standards of conduct and practice and have been referred to, and had action taken against them, by the GTC

Not very useful (regarding Principle 4)

- The core values that underpin the principles in the Code

Not at all useful.

The core values of respect, equality, diversity and inclusion should be reworded in terms of “respect” and of “not demeaning” pupils, parents and colleagues from diverse backgrounds. We believe core values should be in a professional standards guidance document as opposed to a disciplinary code.

Section C:

CI Finally, please use the box below to add any general comments you may have about the draft Code (Optional):

In our view, the GTCE draft Code of Conduct is well written and contains a great deal that will assist the teaching profession and will be of benefit to children apart from the equality and diversity issues already mentioned. However it is written in the style and content of a guide rather than a shorter and sterner disciplinary code and contains material suitable for a guide rather than a disciplinary code.

It also contains some provisions that could be used to limit the rights of teachers to freedom of speech and freedom of expression, as well as limiting their freedom of thought, conscience and religion. Please see above, boxes B2, B5 and B7 for details.

The current code covers the correct areas for ensuring minimum standards, which is what it should do in relation to disciplinary matters. However, in our view, the dual purposes of the Council—promoting high standards and ensuring minimum standards—have become confused in this draft Code. It is vitally important that this distinction is retained to avoid the unfair disciplining of teachers. Much of what is in the Code should instead be contained within an advisory, non-disciplinary document on professional standards for teachers.

In our opinion, the approach of the current code should be retained as it sets the “minimum standards” for the profession. The draft code has lost sight of its primary purpose and should not stray into or extend areas which should not be regarded as disciplinary matters.

The new draft Code should be reformulated along the lines of the current Code, which serves its purpose as a disciplinary code well, because it restricts itself to disciplinary matters. Much of the material in the draft Code should be in a separate code of advisory, non-disciplinary status, covering professional standards. For example, teachers showing the core values of “excellence and continual development” and “commitment and empathy” are professional standards to strive to achieve, but failure to attain them should not warrant disciplinary measures.

The new draft Code also places in a separate section, namely Appendix 2, a list of examples of teachers falling seriously short of the expected standards of conduct and practice set out in the Code, which is meant to be an interpretive aid to the Code. In our view, such a list should not be in a separate Appendix, but should form the core of the Code, as it does in the current Code. We also suggest that the examples for Principle 4 that are found in Appendix 2 should be less invasive of teachers' freedoms, as is the case in the current Code and that the heading "promoting equality and diversity" should be removed and replaced throughout the Code with its current title of "conduct relating to pupils and partners in education".

Having filled in your answers, you may go backwards to review or change them, or you can click the submit button to submit your answers—you will then be redirected to the OPM website.