



UNIVERSITY OF LEEDS

This is a repository copy of *Homosexuality, religion and the contested legal framework governing sex education in England*.

White Rose Research Online URL for this paper:
<http://eprints.whiterose.ac.uk/83357/>

Version: Accepted Version

Article:

Vanderbeck, RM and Johnson, P (2015) Homosexuality, religion and the contested legal framework governing sex education in England. *Journal of Social Welfare and Family Law*, 37 (2). pp. 161-179. ISSN 0964-9069

<https://doi.org/10.1080/09649069.2015.1028152>

Reuse

Unless indicated otherwise, fulltext items are protected by copyright with all rights reserved. The copyright exception in section 29 of the Copyright, Designs and Patents Act 1988 allows the making of a single copy solely for the purpose of non-commercial research or private study within the limits of fair dealing. The publisher or other rights-holder may allow further reproduction and re-use of this version - refer to the White Rose Research Online record for this item. Where records identify the publisher as the copyright holder, users can verify any specific terms of use on the publisher's website.

Takedown

If you consider content in White Rose Research Online to be in breach of UK law, please notify us by emailing eprints@whiterose.ac.uk including the URL of the record and the reason for the withdrawal request.



eprints@whiterose.ac.uk
<https://eprints.whiterose.ac.uk/>

**Homosexuality, religion and the contested legal framework
governing sex education in England**

Robert M. Vanderbeck
Senior Lecturer in Human Geography
School of Geography
University of Leeds
Leeds
LS2 9JT
United Kingdom
r.vanderbeck@leeds.ac.uk

Paul Johnson
Anniversary Reader in Sociology
Department of Sociology
University of York
York
YO10 5DD
United Kingdom
paul.johnson@york.ac.uk

Homosexuality, religion and the contested legal framework governing sex education in England

ABSTRACT: This article examines how religion has influenced, and continues to influence, the legal framework that regulates the circulation of knowledge about homosexuality and same-sex relationships within state-funded schools in England. This legal framework has become the subject of considerable recent public and legislative contestation. We argue that religious considerations and interests have contributed to the production and maintenance of an uneven educational landscape in which young people face disparities in their access to instruction regarding issues related to homosexuality and same-sex relationships. Key themes explored in the article include the exclusion of discussion of homosexuality from the requirements of the National Curriculum; the right of parents to withdraw children from sex education; attempts to make some discussion of same-sex relationships a statutory requirement for all state-funded schools, including faith schools; and the uncertain implications of the Marriage (Same Sex Couples) Act 2013 for the teaching of sex education.

Key words: sex education; faith schools; homosexuality; National Curriculum; academies; Marriage (Same Sex Couples) Act 2013

Homosexuality, religion and the contested legal framework governing sex education in England

Introduction

In this article we examine how religion has shaped, and continues to shape, the legal framework that regulates the circulation of knowledge about homosexuality and same-sex relationships within state-funded schools in England.¹ The extent to which religious considerations should influence this legal framework has become the subject of significant public and political debate. These debates are occurring within a wider social and legislative context in which there has been a proliferation of claims about the marginalisation of religion from public life and the process of lawmaking. The Archbishop of York, for example, has argued that ‘the law is now regarded as [...] completely severed from morality and religion’ (HL Debate, 19 November 2007, cc.704–705), while former Archbishop of Canterbury Lord Carey has asserted that ‘homosexual rights [are] trumping religious rights’ (Stanford, 2012). In contrast to these claims about religious marginalisation, we argue that religious considerations and interests continue to be influential in maintaining an educational landscape in which young people face disparities in their access to teaching and discussion about issues pertaining to homosexuality and same-sex relationships.

The article will proceed as follows. We first briefly place contemporary debates within their historical, social, and political context, and then outline the current legal framework in relation to sex education and the legal duties of different kinds of schools. Following this, we turn to an exploration of key areas of current controversy and debate where religious considerations have proven important. These include the ongoing exclusion of issues related to homosexuality from the requirements of the National Curriculum; the right of parents to withdraw children from sex education; attempts to make the provision of sex and relationships education (including discussion of same-sex relationships) a statutory requirement for all state-funded schools including academies; the implications of the passage of the Marriage (Same Sex Couples) Act 2013 for the teaching of sex education; and the impact of equalities legislation. We also explore questions related to the role of independent

inspectorate, Ofsted (the Office for Standards in Education, Children's Services and Skills). We conclude with reflections on the trajectory of future debates and the need for reform.

Background and context: teaching about homosexuality in England's schools

In this section we seek to situate current debates and controversies about education in England within a broader social and historical context. We begin by providing necessary background to current debates. This includes reflection on the passage and repeal of so-called 'Section 28', which has left a significant legacy for understanding the contemporary situation. We then outline recent debates regarding the need to challenge homophobia and heteronormativity in schools. Finally we explain the current legal framework regarding sex education as it pertains to different categories of schools (including faith schools), including an exploration of current statutory guidance related to sex education.

Social and historical context

Conflicts in England have been ongoing for several decades regarding how schools teach about issues related to homosexuality and same-sex relationships. A recent example is provided by the widely reported case of Andrew Moffat, an openly gay assistant head teacher at a Birmingham primary school who in April 2014 resigned his post after concerted objections from Christian and Muslim parents. The objections of parents focused on two issues. First, some parents complained that Moffat 'came out' at a school assembly during which several pupils displayed a poster they had made proclaiming 'Gay is good'. Second, some parents objected to a literacy lesson led by Moffat at which he used reading materials designed to encourage pupils to appreciate the diversity of family forms in contemporary society. This included the use of an illustrated story regarding a picnic attended by a same-sex couple and their child as well as a range of other types of family. Supporters of the parents suggested that the school had not fulfilled a legal responsibility to inform parents about the nature of the teaching taking place (e.g. Flanagan, 2014), while pro-gay campaigners countered that the provision of these lessons was consistent with the school's duties under equalities legislation (e.g. Meredith, 2014). While it is unsurprising for the press to provide an overly simplistic account of legal issues, the public controversy does in part illustrate some of the legal uncertainties that continue to be experienced by schools, parents, pupils, and others.

Schools have been viewed as key strategic sites by both advocates and opponents of the social acceptance of homosexuality. The strategies of pro-gay social movements and their supporters have been multifaceted, including efforts to incorporate information about aspects of sexual health relevant to non-heterosexual young people into sex education; to challenge stigmatising discourses about homosexuality by offering more ‘positive’ forms of representation; to promote the visibility and recognition of non-heterosexual lives in history and society; and to educate young people about equality and anti-discrimination in relation to sexual orientation (Pilcher, 2005; Rasmussen 2006; Sauerteig and Davidson, 2009). There has also been substantial resistance to these kinds of efforts. The most notorious example of this resistance is the passage under Margaret Thatcher of so-called ‘Section 28’, which specified that local authorities must not ‘intentionally promote homosexuality or publish material with the intention of promoting homosexuality’ nor ‘promote the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship’ (S.2A(1) Local Government Act 1986, created by S.28 Local Government Act 1988). Section 28 has been characterised as part of a ‘moral counter-revolution’ (Blair and Monk, 2009, p.38) that originated in response to certain local authorities adopting more progressive approaches to teaching about sexuality, which sometimes involved the inclusion of non-stigmatising portrayals of homosexuality. Although the direct impact of Section 28 on schools was limited (given that control of sex education rested with individual schools rather than local authorities), it nevertheless had a ‘chilling effect’, with many teachers unsure whether any mention or discussion of homosexuality was permissible.

Section 28 was attributed enormous symbolic significance by both supporters and opponents, resulting in a protracted struggle for its repeal. In England and Wales, attempts to repeal it by the Labour Government started in 2000 in the Local Government Bill 1999-2000, but were blocked by a campaign in the House of Lords led by Baroness Young, an influential figure known for championing ‘Christian values’ (Christian Institute, 2012). A range of religious groups participated in well-funded campaigns of opposition to repeal in order to, it was commonly claimed, protect ‘vulnerable young people’ (Christian Institute, 1999). In an attempt to secure repeal, the Government negotiated with the Church of England (Reeves 2000), reaching an agreement that the church would not campaign against repeal in exchange for new statutory guidance on sex education that foregrounded marriage (Department for Education and Employment, 2000). This statutory guidance, which we explore below, was

issued in July 2000 and remains unchanged to date. However, a number of evangelical and fundamentalist groups criticised the Church for its stance, and repeal was not achieved until 2003.²

Challenging homophobia and heteronormativity in schools

The eventual repeal of Section 28 gave increased impetus to efforts to reform how schools teach about homosexuality and same-sex relationships. A primary rationale for these efforts has been to combat the problem of homophobic bullying. Despite the growing social acceptance of homosexuality (Johnson, 2005), a range of evidence suggests that homophobic bullying remains a problem in English schools despite some improvements (e.g. Guasp, 2012; Ofsted, 2013b). The issue of homophobic bullying has received growing public attention, in part due to high-profile campaigns such as the It Gets Better Project, for which Prime Minister David Cameron recorded a message declaring that: ‘This Government is working hard to tackle homophobic bullying and drive it out of our schools’. Archbishop of Canterbury Justin Welby has recently announced his support for an initiative against homophobic bullying in church schools (Accord Coalition 2013; Bingham, 2013). This occurred in the aftermath of negative publicity regarding the Archbishop’s opposition to the MSSCA 2013, including criticism that the rhetoric of the church’s leadership contributed to a hostile environment in schools.

Beyond the recent emphasis on bullying, however, a number of advocates have argued that much remains to be done to destabilise the dominant heteronormativity of schooling. As Epstein et al. (2000/1: 138) argue, ‘heterosexuality [...] is the pervasive imagined future for children’. The heteronormativity of the curriculum is evident ‘as much through what is not iterated as through what is explicitly stated or enacted’ (Sauntson, 2013: 395). This is true not only in ‘sex education’ but also across other subjects where non-heterosexual lives and experiences are rendered marginal or invisible (although groups such as Stonewall (2014) promote resources for teachers seeking to incorporate issues related to same-sex relationships in history, geography, English, arts, music, citizenship education and other subjects). Projects such as No Outsiders (DePalma and Atkinson, 2009) have also worked with schools to develop teaching resources that seek to move ‘beyond a discourse of tolerance’ and challenge heteronormativity, although this kind of work is often perceived by opponents as more threatening than the more broadly endorsed message of anti-bullying. For example, Baroness

O’Cathain - a leading opponent of gay law reform and patron of the Christian Institute - has criticized No Outsiders in Parliament for allegedly ‘going around the country telling schools that [...] they have to “normalise” homosexuality to seven year-olds and read gay fairy tales in the classroom’ (HL Debate 21 March 2007, c.1298).

Religious belief is of course not antithetical to support for sexual orientation equality (movements for gay inclusion exist within all of the major faith traditions). Nevertheless, the Church of England and the Catholic Church – by far the two largest sponsors of faith schools in England³ – officially opposed marriage equality, and the ‘authoritative statements’ of the Church of England describe same-sex relationships as of unequal worth to heterosexual ones (Church of England, 2014). The leadership of both churches, as well as a number of other faith groups, assert a right and desire for their schools to provide sex education according to their religious ethos. We explore this claim below in relation to the current legal framework on sex education as it pertains to different kinds of schools, including those with and without a designated religious character.

The current legal framework for sex education

There is arguably no other area of public life in England where religious interests remain more firmly embedded than in the system of state-funded schools. Approximately 37 percent of primary schools and 19 percent of secondary schools have a designated religious character.⁴ These ‘faith schools’ (as they have become known in common parlance) exist both in the maintained sector (which are funded by central government via their local authorities)⁵ as well as amongst the rapidly proliferating number of academies and free schools (which are funded directly by central government with autonomy from local authority control).

Maintained schools in England, regardless of religious designation, are required to teach the statutory ‘basic’ curriculum comprised of the National Curriculum plus religious education and, at secondary level, sex education (S.80(1) Education Act 2002). Primary schools can also choose to incorporate elements of sex education. Aspects of the biological dimension of human sexuality and reproduction are contained within the Science programme of study.⁶ In practice, other dimensions of sex education – or sex and relationship education (SRE), as it is called in guidance (but not statute) and by many schools – tend to be incorporated by

maintained schools into a broader non-statutory framework of Personal, Social, Health and Economic Education (PSHE). The National Curriculum, to which the great majority of teaching time in maintained schools is devoted, currently contains no requirement to provide any instruction or discussion regarding same-sex relationships. Parents have a right to withdraw children up to age nineteen from those elements of ‘sex education’ that are not ‘comprised in the National Curriculum’ (S.405 Education Act 1996).⁷

The concept of ‘sex education’ is rather weakly defined in English law and is open to interpretation regarding the forms of knowledge that should be included within its ambit. Maintained schools are responsible for developing their own approaches while having regard for the statutory guidance issued by the Secretary of State. This guidance also applies to academies and free schools: although they have no legal requirement to adhere to the National Curriculum nor provide sex education, they must have regard for the guidance if delivering sex education.⁸ The law requires that this guidance be issued to ensure that when sex education is provided to pupils:

- a. they learn the nature of marriage and its importance for family life and the bringing up of children, and
- b. they are protected from teaching and materials which are inappropriate having regard to the age and the religious and cultural background of the pupils concerned.

(S.403(1A) Education Act 1996, as amended by S.148(4) Learning and Skills Act 2000).

There is also a requirement for students at maintained schools to learn about sexually transmitted infections including HIV/AIDS (S.579(1) Education Act 1996). Although schools must have regard for the guidance, it is non-prescriptive and open to interpretation (Monk 2001). In the view of former Secretary of Education Michael Gove (2012), schools have ‘discretion’ about what they teach in sex education and, in the case of maintained faith schools, ‘the only requirement is for them to teach the statutory science curriculum, and to teach about HIV/AIDS’.

In contrast to Section 28's injunction against promoting homosexuality, the statutory guidance contains the ostensibly more neutral statement that there 'should be no direct promotion of sexual orientation' (Department for Education and Employment, 2000, §1.30). However, critics argue that there is risk that schools conflate 'sexual orientation' with non-heterosexuality (Monk 2001; Wintemute 2012). The injunction to not directly promote 'sexual orientation' sits uneasily with the active promotion of heterosexual marriage (the only form existing prior to the MSSCA 2013) that the Church of England asserts has characterised its approach: '[o]ur own view is that the promotion of marriage is part of sex and relationship education' (Bishop of Norwich, HC Committee, 12 February 2013, c.26).⁹

While the Education Act 1996 (as amended) stresses the importance of marriage, the statutory guidance also 'recognises that there are strong and mutually supportive relationships outside marriage' and that 'children should learn the significance of marriage and stable relationships as key building blocks of community and society' (§1.21, emphasis added). Schools should also 'make sure that the needs of all pupils are met' and 'teachers should be able to deal honestly and sensitively with sexual orientation' (§1.30). However, the guidance is also explicit, that '[s]chools of a particular religious ethos may choose to reflect that in their [SRE] policy' (§1.7). The parameters of this, however, were left undefined (see also Monk 2001) and remain an ongoing source of interpretation, confusion and debate. In the view of the Catholic Education Service, a body that advises Catholic schools, the statutory guidance supports their assertion that school governors 'must ensure that the sex education provided is in keeping with the teachings of the Church' as part of their responsibility to ensure that 'the Catholic character of the school is preserved and developed' (Catholic Voices, 2011). Echoing this, for example, Keighley's Holy Family Catholic School (2012) indicates in its policy that sex education 'is structured to be given within the Religious Education Department and follows the teachings of the Catholic Church in all matters'.

Recent evidence highlights the uneven nature of SRE provision nationally (including the varying treatment given to same-sex relationships) and questions whether it in fact meets the needs of 'all pupils'. It is widely acknowledged that the exclusion of non-science sex education from the National Curriculum adversely affects its prioritisation compared to subjects that are part of the examinations regime. Ofsted has reported that SRE provision requires improvement in nearly half of a sample of secondary schools, noting that homosexuality was seemingly categorised as a 'controversial' issue that was often avoided by

teachers (Ofsted 2013, p.12; cf. Hand 2007). This is reinforced by other research in which non-heterosexual pupils report that issues related to homosexuality are inadequately addressed - if at all - in some schools (Guasp, 2012). There is no systematic evidence regarding differences in approach between schools with and without a religious designation; however, there is evidence from pupil testimony that some faith schools either avoid discussion of the topic (although this is not confined to faith schools) or teach about it through a religiously-inflected lens of immorality (Guasp, 2012).¹⁰

Within the context of evidence regarding the highly uneven ways in which issues related to homosexuality and same-sex relationships are treated by schools, there have been a number of campaigns to reform the current legal framework, as well as concerted resistance to reforms. In the sections that follow, we examine a number of interrelated sites where issues of religion remain a central feature of debates regarding proposed reforms to the current legal framework.

Keeping issues of homosexuality outside the National Curriculum

In recent years a number of proposals have been made both by campaigning groups and by Parliamentarians for SRE (including issues related to same-sex relationships) to be incorporated within the National Curriculum, with a compulsory programme of study. The previous Labour Government had introduced legislation to make PSHE (including SRE) a statutory National Curriculum subject (Macdonald, 2009), although after Labour's 2010 electoral defeat this legislation was dropped. The subsequent Conservative-Liberal Democrat coalition has stated repeatedly that it does not intend to place SRE within the National Curriculum, an intention reflected in the new curriculum released in 2013 (DfE 2013e, section 2.3). As we demonstrate below, religious considerations have clearly been influential in the Government's justification of the current status quo.

The status of teaching on homosexuality was explicitly addressed in the Government's consultation on the new National Curriculum and noted in its Equality Impact Assessment¹¹ (EIA) of the proposed changes (DfE 2013g). The EIA demonstrates how Government continues to classify issues concerning homosexuality as a special category of 'sexual' knowledge most appropriately confined to the non-statutory curriculum. This is true even when the issues of concern do not relate directly to explicit sexual behaviour but rather to the promotion of equality or the acknowledgment of the historical/contemporary diversity of

relationship forms. The Government repeatedly rejected arguments made by some campaigners for including some teaching about homosexuality in different sections of the statutory curriculum. For example, the Government rejected the view of several respondents that some discussion of homosexuality be incorporated into the Science programme of study. This was partially justified with recourse to the concerns of religious groups about the loss of the right of parental withdrawal should this topic (or other aspects of sex education) become statutory:

Representatives of some religious groups expressed concerns over aspects of the prescribed content which run counter to the core beliefs of their communities [...] It was argued that sex education should be included in PSHE only, to preserve the right of parents to withdraw their children from those lessons. Other stakeholders were critical of the focus on sexual activity being only on the context of reproduction (thereby excluding gay pupils) and was suggested that same-sex relationships should be specified as part of the theme of human reproduction in key stage 3 [...] On same-sex relationships, our view is that it is most appropriate for schools to cover this topic as part of PSHE education, where it can be adapted more effectively to suit the needs of particular groups of pupils. (DfE 2013g, p.12)

This segregation of issues pertaining to homosexuality from the requirements of the National Curriculum did not simply take place in relation to Science, but also in relation to History and Citizenship education. Whereas the consultation draft of the proposed programme for History originally specified that at key stage 3 (ages 12-14) the study of twentieth century history should include a focus on ‘society and social reform, including the abolition of capital punishment, the legalisation of abortion and homosexuality, and the Race Relations Act’ (DfE, 2013d, p.171), this reference was removed in the interests of not producing a programme of study that was ‘over-prescriptive’ and that ‘can and will be taught’ (DfE, 2013g, p.10). In relation to proposals to include discussion of diverse sexual identities and relationships within statutory Citizenship education (which specifies that at Key Stage 4 ‘pupils should be taught...diverse national, regional, religious and ethnic identities [...] and the need for mutual respect and understanding’ (DfE, 2013c)), the Government stated its view that schools ‘should continue to address different sexual identities and family structures as part of PSHE education, where it can more effectively be adapted to suit the needs of particular groups of pupils’ (DfE 2013g, pp.7-8).¹² While promoting messages about ‘the need for mutual respect

and understanding' in relation to national, regional, religious and ethnic identities is portrayed as necessary for all pupils regardless of background or parental objections, sexual orientation diversity is represented as a topic still requiring adaptation for 'particular groups of students'. Excluding issues of homosexuality from the requirements of the National Curriculum also serves to ensure a right of parental withdrawal, which we explore in more detail below.

Religion and the preservation of the right of parental withdrawal

The right of parents to withdraw children up to age 19 from sex education is a significant concern for a number of critics (e.g. Dwyer, 2001; UK Youth Parliament, 2007; British Humanist Association, 2013; Marples, 2014) who on the grounds of children's rights object to the powerlessness of children and young people in these circumstances. There is, for example, no right for pupils of sufficient maturity to opt into sex education. This is true even of pupils who explicitly reject the moral/religious stance of their parents or who are sexually active and according to the Fraser guidelines¹³ would be considered competent to be prescribed contraception or issued with prophylactic devices (e.g. condoms).¹⁴

However, preserving the right of withdrawal has been a focus of religious lobby groups including the Coalition for Marriage (2013), Christian Concern (2014) and the Muslim Council (Assad 2009). These groups have stressed the importance of the issue for some religious parents and encouraged worried parents to exercise this right if schools incorporate in-depth discussion of issues related to homosexuality in the curriculum, even when this material is not sexually explicit. For example, this issue was at the core of public controversy in 2009 involving George Tomlinson Primary School in London. A number of Muslim and Christian parents kept their children at home during educational events designed in conjunction with national LGBT History Month (the number of parents and pupils involved is disputed – reportedly ranging from a small handful to more than 30) (Shaw and Maddern, 2009). Activities included reading books such as *And Tango Makes Three* (Richardson and Parnell 2007), a story of two male penguins who care for a penguin egg together. The school framed the activities as an attempt to combat homophobia and promote awareness of diversity, while some parents objected to children of primary age being exposed to these messages. As one parent explained, 'We have our own way of explaining things to them and they should not be subjected to this [...] I was aware they were going to be learning about homosexual relationships through stories' (Christian Institute, 2009). While the school sought to treat

these absences as unauthorised, and parents were allegedly threatened with court action for truancy (action which was never taken), parents maintained their right to withdraw children from teaching that they saw as constituting a form of sex education. The case of the parents was championed by several religious campaigning groups and segments of the tabloid press which objected to knowledge of homosexuality ‘being smuggled in under the radar in the guise of “history”’ (Littlejohn, 2009) and defended the right of the parents to withdraw their children in these types of circumstances.

Attempts to make sex education statutory for all schools

In response to the concerns about the current legal framework regarding sex education, a number of campaigns have emerged that seek to reform it. These campaigns include diverse coalitions of charities, pressure groups, and politicians concerned not only about the status of homosexuality and same-sex relationships within the curriculum, but also issues including sexual consent, sexual violence, and cyber-safety, which in their view are not currently being addressed adequately in a number of schools (a view corroborated by the 2013 Ofsted report *Not Yet Good Enough: Personal, Social, Health and Economic Education in Schools*).

The approach of these campaigns has focused both on seeking the incorporation of SRE into the National Curriculum, while also making SRE a statutory requirement for academies and free schools, which are not currently obliged to follow the National Curriculum. Academies were introduced under a previous Labour Government (Learning and Skills Act 2000) as a means to foster improvements in underperforming schools, but the academies programme has been substantially extended under the current Government, which has encouraged maintained schools to apply to convert into academies and allowing for the creation of new academies commonly called ‘free schools’ (Academies Act 2010). In the rhetoric of the DfE, the free schools programme allows teachers, parents, NGOs, faith organisations and others to set up new schools in reaction to ‘what local people say they want and need’ (DfE, 2013b). The scope of the transformation - particularly at secondary level - has been radical, with academies increasing from 11% to nearly 57% of state-funded secondary schools between 2011- 2014.¹⁵ Government officials reject claims that the academies programme is increasing the influence of religion on the school system (Butt, 2011), yet it is also clear that formerly maintained faith schools have been actively encouraged to seek academy status as a way of

gaining autonomy and preserving a religious ethos that they can, in Michael Gove's words, 'integrate [...] into every aspect of school life' (Greaves, 2011).

Recent attempts to reclassify PSHE as a statutory subject for both maintained schools and academies have not succeeded, with rhetoric about parental rights and the need for 'flexibility' remaining the dominant discourses in parliamentary debate. In 2013-14, the Labour opposition on two occasions campaigned for amendments to the Children and Families Bill 2012-13/2013-14 that would both insert SRE (including 'information about same-sex relationships') into the National Curriculum for both primary and secondary schools and to make this SRE also compulsory for academies (see HC Debate, 11 June 2013, cc.272-273; HL Debate, 28 January 2014, c.1152). The amendments also made significant alterations to the parental right of withdrawal, with the Lords amendment seeking to constrain the application of this right to children under age 15. The proposed amendments were soundly defeated (HC Debate, 11 June 2013, Division No.25; HL Debate, 28 January 2014, Division No.3), with the Government stressing the need to protect a legal framework that allowed 'this sensitive subject [to] be framed in a manner that has regard for parental views and concerns' (Fiona Bruce MP, HC Debate, 11 June 2013, c.260). As argued by a Conservative party whip:

Every teacher and every head knows their pupils, their children, their school, their neighbourhood, and the culture of the parents with whom they are dealing. To try to lay down centrally a fixed syllabus for what should be taught right from the age of six - teaching six-year-olds about homosexuality and so on - could so offend some of the religious sensitivities in this country. (Baroness Perry, HL Debate, 28 January 2014, c.1124)

However, while SRE remains a non-statutory subject, the recent redefinition of marriage to include same-sex couples has triggered new uncertainties relating to the duties of schools in relationship to how they teach about the subject of marriage. We explore these uncertainties below in relation to the expressed fears of faith schools regarding the potential loss of their ability to reflect their religious ethos in relation to their teaching on marriage.

Implications of the Marriage (Same Sex Couples) Act 2013

Debates over the implications of the MSSCA 2013 stem from the requirement that when delivering sex education schools must ensure that pupils ‘learn the nature of marriage and its importance for family life and the bringing up of children’. As such, the MSSCA 2013 has been interpreted by many to indirectly require schools to address same-sex marriage. Issues pertaining to the legal framework for sex education were discussed extensively in Parliament during the passage of the MSSCA 2013, and many religious groups opposed to marriage equality made these issues prominent in their efforts to obstruct its passage. For example, the Coalition for Marriage (2013, p.4) argued that it was ‘inescapable that if same-sex marriage is legalized many teachers will refuse to teach it...triggering scores of expensive and divisive court cases and souring relations both in staffrooms and between schools and parents’ (see also Muslim Council of Britain, 2012). These fears were encapsulated in a letter to the Daily Telegraph (1 June 2013) co-signed by 53 ‘leaders of Britain’s major faiths’ who criticised the Bill for inadequately protecting teachers who ‘for religious, or philosophical reasons’ oppose the redefinition of marriage to include same-sex couples.

Then Secretary of Education Michael Gove provided reassurances that, although teachers would need to teach the new legal reality, nevertheless ‘there will be no requirement on any teacher to promote a view or doctrine with which they feel any discomfort’ (HC Committee, 12 February 2013, c.6) and that ‘any teacher, if asked direct or invited to share his view by a parent or a student, is perfectly at liberty to say [...] what their own moral view might be’ (HC Committee, 12 February 2013, c.9). He further indicated that he saw no reason to amend the statutory guidance to include specific mention of marriage by same-sex couples (HC Committee, 12 February 2013, c.9). These reassurances, however, failed to satisfy a number of parliamentarians (many of whom are closely linked with conservative Christian groups) who remained concerned about the impact of the MSSCA 2013 on schools. For example, the Parliamentary Unit of the Church of England (2013, pp.2-3) submitted a briefing arguing that ‘[w]hilst Church of England schools will fulfil the duty to teach about the factual nature of marriage in its new legally redefined form, there is residual unclarity over how that will interact with the continuing need for schools to reflect their religious ethos in their SRE policies’. Representing the Church’s position, the Bishop of Ripon and Leeds, John Packer, tabled an amendment during debate over the MSSCA 2013 to require statutory guidance to specify that education on marriage and family life ‘must [...] be given to registered pupils at schools which have a religious character in accordance with the tenets of the relevant religion or religious denomination’ (HL Debate, 24 June 2013, c.547). Government spokesperson

Baroness Stowell reassured Packer that although supportive of his intentions the Government would oppose the amendment on the grounds that it was unnecessary. Schools would retain an ‘inherent right’ (ibid., c.567) to teach their own denominational views of marriage even while having to acknowledge the ‘factual position’ (ibid., c.566):

This country has a strong tradition of schools with a religious character; they are a valued part of our education system. It would be pointless to maintain a system of designation if such schools were unable to teach in accordance with the tenets of their religion [...]. The inherent right of schools to deliver their curriculum and to interpret guidance according to their ethos is evident in their existence as such schools. (ibid., c.567)

Debate over the MSSCA 2013 illuminated the profound embeddedness of the presumption that faith schools should be entitled to present issues of sexuality through the lens of their religious ethos. As argued in the debates by one of the most prominent supporters of same-sex marriage, Lord Alli (who self-identifies as a gay man and a Muslim), ‘it is right and proper that faith schools should be allowed to teach the importance of marriage as they see it in relation to family life’ (ibid., c.556), a discourse that received little direct challenge (but see Baroness Richardson, HL Debate, 24 June 2013, c.547).

The status of teaching about marriage remains the subject of contestation, with uncertainty partially hinging on the extent to which discussion of marriage by same-sex couples should be seen to constitute ‘sex education’ even when schools seek to incorporate it within statutory subjects (e.g. Citizenship). The Coalition for Marriage, for instance, considers this ambiguity in advice to parents encouraging them not to be dissuaded from pursuing withdrawal even if the subject of marriage is being taught outside of the framework of sex education:

The topic of marriage could crop up incidentally across the curriculum, which would not be deemed as sex education. However, depending on the context and level of detail covered, a parent could argue that a lesson or scheme of work which intentionally covered [...] same-sex marriage constitutes sex education. Whether or not such teaching was called sex education would not prevent such a claim being made with an attendant request for a right of withdrawal. (Coalition for Marriage, 2013, pp.17-18),

However, the precise position of parents in these circumstances remains subject to debate and untested in the courts. Similarly uncertain are the parameters in which faith schools can teach about the marriage of same-sex couples and other issues related to homosexuality from the perspective of their religious ethos, an issue we examine below in relation to developments in equalities legislation.

Can the curriculum discriminate?

Although much recent discussion has focused on whether schools should face a requirement to provide some teaching about homosexuality and same-sex relationships, there are also debates about whether particular kinds of anti-gay messages and materials can legitimately be disseminated within faith schools. This is illustrated by recent instances where faith schools have been seen to disseminate anti-gay messages and materials to students. Examples include controversy over a Jewish voluntary school allegedly providing a platform for an organisation advocating ‘gay conversion therapy’ (Razaq, 2012) and the distribution of a book describing homosexuality as ‘directed against God’s natural purpose for sex’ in some Lancashire Catholic schools (Wagner, 2012). Further controversy has involved the refusal of the Government to acknowledge any violation on the part of Catholic schools in England that had urged students to sign a petition opposing marriage rights for same-sex couples (National Secular Society, 2012). This refusal has concerned critics given both the requirement that schools provide balanced treatment of political issues (S.407 Education Act 1996), and also the Public Sector Equality Duty, which requires schools to have due regard to the need to ‘eliminate discrimination’, ‘advance equality of opportunity’, and ‘foster good relations’ (S.149(1)(a)-(c) Equality Act 2010).¹⁶

The question of whether the content of school curricula could be discriminatory featured prominently in debates over the Equality Act (Sexual Orientation) Regulations (EASOR) 2007 and the subsequent Equality Act 2010. The EASOR 2007 did not directly address the issue of curriculum in relation to sexual orientation, a situation that was considered unsatisfactory by both some pro- and anti-gay groups. Some conservative religious groups and parliamentarians argued in favour of an explicit curriculum exception, claiming that staff in faith schools would otherwise be fearful of expressing their viewpoints (e.g. Baroness O’Cathain HL Debate, 21 March 2007, c.1298). In contrast, the Joint Committee on Human Rights (JCHR) unsuccessfully argued that the curriculum should be placed directly within the

ambit of the regulations: ‘a curriculum which teaches a particular religion’s doctrinal beliefs as if they were objectively true...is likely to lead to unjustifiable discrimination against homosexual pupils’ (Joint Committee on Human Rights 2007: 25). The Labour Government stressed that it had no intention for curriculum to be covered by the regulations, but the issue was considered ambiguous by many parties to the debate.

The issue of curriculum was revisited in debates over the EA 2010, which introduced a wide curriculum exception stating that nothing in the school provisions (Pt.6 Ch.1 Equality Act 2010) ‘applies to anything done in connection with the content of the curriculum’ (S.89(2) Equality Act 2010). Government guidance to schools on the EA 2010 distinguishes between curriculum content (which is excepted from the provisions) and the manner of its delivery (which, it argues, is not) (Department for Education 2013a). Concerns were raised early in the debates about the scope of the curriculum exception, with the JCHR (2009) again highlighting the potential adverse effects for students in some faith schools. The JCHR criticized the Government’s claim that pupils would be protected from anti-gay materials being presented in a ‘hectoring, harassing or bullying way’;¹⁷ instead, it asserted that the content was significant independent of its manner of delivery:

[E]xempting the content of the curriculum [...] means, for example, that gay pupils will be subjected to teaching that their sexual orientation is sinful or morally wrong [...] We remain of the view that this is likely to lead to unjustifiable discrimination against gay pupils, even if it is not presented in a hectoring, harassing or bullying way. (JCHR 2009, section 220)

Although the JCHR’s argument was again rejected, subsequent guidance for schools issued by the Equality and Human Rights Commission (EHRC) – a body with a statutory remit to protect, enforce and promote equality – provides a confusing picture. The EHRC suggests that teaching that homosexuality is ‘wrong’ could indeed constitute discrimination, employing the following example which in fact primarily describes content as opposed to the manner of teaching:

A teacher at a Church of England school tells pupils that homosexuality is ‘wrong’ and that gay and lesbian people will ‘burn in hell’ unless they are ‘cured of the disease’. A gay pupil in the class is deeply offended and intimidated by this hostile

and degrading language. This may be unlawful direct discrimination on the grounds of sexual orientation. (Equality and Human Rights Commission 2013, p.27)

The ambiguous distinction between content and manner of delivery remains the source of dispute. This is illustrated by recent objections raised by pro-gay campaigners, secularist groups, unions and others in relation to information being distributed in some Catholic schools about homosexuality. In December 2011, Brendan Barber (Trade Union Congress General Secretary) wrote to Michael Gove raising concerns about '(p)rejudiced literature in faith schools' specifically concerning a book for young men which was given to pupils in a number of Catholic Schools in Lancashire (Barber, 2011). The booklet, *Pure Manhood*, authored by a US speaker who runs 'chastity.com', characterises homosexuality as 'disordered', and the author recommends that young men experiencing same-sex attraction should contact a Catholic ex-gay organisation called Courage (Evert, 2011). The booklet also contains clear misinformation, such as the claim that the 'life expectancy of homosexual men is half that of heterosexual men'. Barber (2011) argued that the use of the booklet in schools violated the EA 2010 duty for schools to tackle 'prejudice' (S.149(5)(a) EA 2010). Gove's reply stressed that the content of the curriculum was exempt from the EA 2010 and that the schools in question were free to distribute materials with such content provided their approach did not involve 'haranguing, harassing, or berating' pupils (Gove, 2012).¹⁸ The reply gave no consideration to how the circulation of such materials potentially relates to a school's duties under the Public Sector Equality Duty.

The Government's response has helped assuage the fears of those who insist that faith schools retain a right under equality law to distribute religious material with negative portrayals of homosexuality (Teahan, 2013). Campaigners for inclusive education (e.g. the Accord Coalition, 2012), have similarly interpreted this as a 'green light' for faith schools to circulate these materials without worrying that they are contravening the EA 2010.

The role of Ofsted

In this final section, we examine some current ambiguities related to the role of Ofsted. Specifically, we explore how much discretion faith (and other) schools actually have in relation to teaching about homosexuality and same-sex relationships within the context of the current inspection regime. When the current statutory guidance was issued in 2000, some

commentators (e.g. Monk 2001) expressed hope that the inspection regime would result in greater uniformity of provision given the considerable room for interpretation that exists in statute and guidance. As discussed previously, however, recent evidence suggests that there is considerable variation in practice and the quality of provision between schools.

While PSHE is not currently inspected by Ofsted as a separate subject (Ofsted, 2014b), aspects of PSHE and SRE provision can be captured in relation to other issues on which Ofsted reports. These issues include the ‘spiritual, moral, social and cultural development’ (SMSC) of pupils, something on which Ofsted has a duty to report when conducting inspections (S.5B(a) Education Act 2005, as amended by S.41(1) Education Act 2011),¹⁹ as well as safety and bullying (Ofsted 2012). In relation to SMSC, the meanings of the terms ‘spiritual’, ‘moral’, ‘social’ and ‘cultural’ are not legally defined, with Ofsted (2004) having published guidance regarding its own practical interpretation of these concepts. The guidance states that ‘schools that are addressing pupils’ moral development are...likely to be...promoting measures to prevent discrimination on the basis of...sexual orientation...and other criteria’ (p.18), with similar guidance given in relation to ‘cultural’ development (p.26). In relation to the problem of bullying, Ofsted (2012, p.8) has recommended that schools should ensure that their curriculum ‘systematically teaches pupils about all aspects of individual difference and diversity, including those related to...sexuality’ (p.8). A recent briefing on how to inspect schools for their response to homophobic bullying suggests that inspectors ‘might’ ask primary students if they ‘have had any lessons about different types of families (single parent, living with grandparents, having step-parents, having two mums or two dads)’ and secondary students if they ‘learn in school about different types of families – whether anyone is, or would be, teased about having same-sex parents’ (Ofsted, 2013a, p.3). Whether these questions that inspectors ‘might’ ask are in fact asked routinely is unknown, nor is it clear how a failure for students to respond in the affirmative to these questions would affect an overall inspection judgment.

Ofsted’s published inspection reports of secondary schools/academies are not consistent in directly addressing the quality of SRE generally nor specifically in relation to homosexuality and same-sex relationships.²⁰ However, as evidenced by the recent inspections in Birmingham triggered by allegations of ‘Islamic extremist’ influence (the so-called ‘Trojan Horse’ affair²¹), lack of effective SRE has been cited amongst the reasons given for recommending an academy be put into special measures (e.g. Ofsted, 2014a, p.1) despite

there being no legal requirement for academies to provide SRE. These inspection reports suggest that some of the curricular freedom afforded to academies is illusory (cf. Bassett, Lyon, Tanner and Watkin, 2012) and that schools providing no sex education (or showing inadequate regard for statutory guidance when doing so) risk difficulties from Ofsted. However, there is no clear indication from Ofsted regarding its interpretation of the clear statement in guidance that schools with a religious ethos ‘may choose to reflect that in their [SRE] policy’ (Department for Education and Employment, 2000, section 1.7) or whether it would consider it legitimate for faith schools to make some use of materials that present negative religious views of homosexuality (such as those discussed in the previous section).

Conclusion

Although forms of morally conservative religious discourse about homosexuality no longer have the authority to shape law in ways that were evident in the past (e.g. Section 28), religious interests and considerations continue to have important influences on debates regarding the legal framework that governs the circulation of knowledge about homosexuality and same-sex relationships in schools. More than fourteen years after the current statutory guidance on sex education was issued (an event which commentators at the time saw as a significant step towards a more uniform and inclusive type of sex education provision), evidence from Ofsted and other sources suggests that significant disparities remain in how schools approach SRE (and specifically issues related to homosexuality). The current legal framework in England remains such that young people can find themselves with very different access to teaching about sexual health, same-sex relationships, diverse family forms, sexual orientation equalities, and other issues that we would argue should constitute part of an inclusive education: an education that challenges not only overt homophobia but also dominant patterns of heteronormativity.

There remain uncertainties and controversies regarding both what is permissible and required of state-funded faith schools. The issues continue to be debated in Parliament, where there are ongoing efforts to pass new legislation that would make SRE – including some discussion of same-sex relationships - compulsory for all schools. This includes a Private Member’s Bill – the Personal, Social, Health and Economic Education (Statutory Requirement) Bill 2014-15 – that at the time of writing has been introduced by Caroline Lucas MP and is scheduled for its second reading. Religious organisations such as the Evangelical Alliance (2014) and the

Catholic Education Service (2014) have made submissions opposing the types of changes contained in the Bill, while the Church of England has indicated that it supports a reformed statutory framework for SRE ‘as long as...the existing entitlement for schools with a religious character to teach SRE in the context of the school’s religious foundation is retained’ (National Society Church of England, 2014).

At present there is growing public discussion regarding the future of faith schools and, more broadly, the role of religion in education (e.g. Bingham 2014). The level of government support for faith schools belies the fact that public opinion is highly ambivalent about their existence (Westminster Faith Debates, 2013). In a recent poll of 2144 British adults who were asked if faith schools should be able to ‘refrain from any form of sex education in school lessons’, 82% agreed with the statement ‘No, they should treat this issue like most other state schools’ (YouGov, 2014). Of course, non-faith schools do not necessarily provide a fully inclusive education in relation to issues of sexual orientation diversity – and some faith schools will do this better than many non-faith schools. Nevertheless, there seems to be limited public sentiment for any legal framework in which faith schools are allowed greater discretion in how they approach questions of sex and sexuality than other schools.

Beyond SRE, schools also differ significantly in terms of how other areas of teaching—such as Citizenship, History, English, or other subjects—incorporate systematic reflection on issues related to homosexuality and same-sex relationships would potentially present a richer, fuller, and more potentially honest account of the world. Conservative religious groups (as well as other groups with morally-conservative agendas) continue to question the legitimacy and appropriateness of schools choosing to incorporate issues related to homosexuality into the teaching of National Curriculum subjects, while the Government has done little to encourage this kind of teaching and resisted calls to specify it within the requirements of the National Curriculum. The Government’s approach contrasts with that of contexts such as the US state of California, which in 2011 passed the FAIR (Fair, Accurate, Inclusive and Respectful) Education Act. The Act updated California’s Education Code to specify that:

instruction in social sciences shall include study of the role and contributions of [...] lesbian, gay, bisexual, and transgender Americans [...] to the economic, political, and social development of California and the United States of America,

with particular emphasis on portraying the role of these groups in contemporary society. (S.51204.5)

This form of instruction comes with no ‘opt-out’ provision (despite a concerted campaign to amend the law to provide one), in clear contrast to so-called ‘comprehensive sex education’, from which parents can withdraw their children (S.51938 California Education Code). While such an approach still prioritises parental rights to a worrying degree, it nevertheless sends a clear message that morally and religiously conservative attitudes regarding same-sex sexuality cannot preclude young people from being exposed to a certain level of knowledge about the lives of people of diverse sexual orientations.

ENDNOTES

¹ We limit our discussion to England due to important differences in the school systems in Scotland, Wales, and Northern Ireland.

² S.122 Local Government Act 2003 repealed S.2A Local Government Act 1986 in England and Wales. In Scotland repeal was achieved by S.34 Ethical Standards in Public Life etc. (Scotland) Act 2000.

³ Most faith schools are associated with either the Church of England (which dominates at primary level) or the Roman Catholic Church (which dominates at secondary level). A small percentage have designations as Hindu, Jewish, Muslim, Sikh, or of other Christian traditions.

⁴ This process is governed by the Religious Character of Schools (Designation Procedure) Regulations 1998.

⁵ The main categories of maintained schools are community, foundation and voluntary schools (S.20(1) School Standards and Framework Act 1998). There are also two categories of school for pupils with special educational needs: community special and foundation special schools. Voluntary and foundation schools (but not community schools) can be designated as having a specific religious character (S.69(3-5) School Standards and Framework Act 1998). Virtually all voluntary schools have such a designation.

⁶ Direct reference to ‘sexual health’, however, which formerly featured in the Key Stage 3 programme of study, has been omitted from the new science curriculum announced in 2013. Teaching about sexual health was noted in: Qualifications and Curriculum Authority (2007b, pp.211 and 213). Direct references to sexual health do not however appear in the new 2013

science programme of study (Department for Education 2013f). The Key Stage 4 programme has not yet been released.

⁷ The number of parents who exercise this right, according to one estimate, is circa 0.04% (Ofsted 2002).

⁸ The language of academy funding agreements contains some ambiguity. They specify that academies must ‘have regard to any guidance issued by the Secretary of State on [SRE] to ensure that children at [the] Academy are protected from inappropriate teaching materials and they learn the nature of marriage and its importance for family life and for bringing up children’ (Long 2011, p. 6). This arguably leaves room for interpretation about whether academies must have regard for all aspects of the guidance (which covers many issues), or whether they must have regard to it only to the extent that children are appropriately protected and learn about marriage.

⁹ In 2014, ‘supplementary’ guidance was published by the PSHE Association, Sex Education Forum, and the charity Brook to be ‘read alongside’ statutory guidance (Sex and Relationships Education (SRE) for the 21st Century 2014). This guidance advocating an ‘inclusive’ approach has been ‘welcomed’ by Schools Minister Lord Nash and the Deputy Prime Minister, Nick Clegg (Brook 2014), but has no legal standing.

¹⁰ Guasp (2012) suggests that non-heterosexual pupils report that faith schools are less likely to make clear statements about the unacceptability of homophobic bullying, and that staff are less likely to intervene in incidents.

¹¹ EIAs are prepared to provide evidence that official bodies are fulfilling their duties under the Equality Act 2010.

¹² The explanatory notes of the previous programme of study for Citizenship (Qualifications and Curriculum Authority 2007a) included mention of ‘sexual orientation’ as a dimension of diversity.

¹³ ‘Fraser guidelines’ refer to those set out in *Gillick v West Norfolk & Wisbech Area Health Authority* [1985] UKHL 7.

¹⁴ It has been claimed that Article 2 of Protocol No.1 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) guarantees the right of parents to withdraw their children from mandatory sex education classes in schools on the grounds that such classes restrict the right of parents to educate their children in conformity with their religious convictions. Such claims have been unsuccessful in the European Court of Human Rights (see, for example: *Kjeldsen, Busk Madsen and Pedersen v. Denmark*, 7 December

1976, Series A no. 23; Dojan and Others v. Germany (dec), no. 319/08 et al., 13 September 2011). See also Furniss and Blair (1997).

¹⁵ Derived from Department for Education (2011) and Department for Education (2014).

¹⁶ This contrasts with the response of Welsh Education Minister Leighton Andrews, who wrote to all Catholic schools reminding them of their obligations under the Education Act 1996 (Teahan 2012).

¹⁷ This seemingly alludes to S.85(2)(a) Equality Act 2010, specifying that a school must not discriminate ‘in the way that it provides education’.

¹⁸ Provisions on harassment in schools in fact exclude sexual orientation from protection (Wintemute 2012 provides a discussion).

¹⁹ A requirement for schools to promote SMSC first appeared in the Education Reform Act 1988, with a duty placed on the Chief Inspector to report on SMSC first appearing in the Education (Schools) Act 1992.

²⁰ We base this claim in part on a review of all secondary school inspection reports published for Birmingham schools from July 2013 – August 2014.

²¹ We would stress that we do not offer any direct opinion on the events of the ‘Trojan Horse’ affair, given ongoing uncertainties about the facts of the situation and the nature of the official response.

REFERENCES

Accord Coalition. (2012). Government offering green light to homophobia in schools. 20 February. Retrieved from: <http://accordcoalition.org.uk/2012/02/20/government-offering-green-light-to-homophobia-in-schools/>

Accord Coalition. (2013). Accord urges at Stonewall Education Conference for faith schools to tackle homophobic bullying. 15 July. Retrieved from: <http://accordcoalition.org.uk/2013/07/05/accord-urges-faith-schools-to-tackle-homophobic-bullying-at-stonewall-education-conference/>

Accord Coalition. (2014). Sex and relationships education guidance must be followed by government action. 28 February. Retrieved from: <http://accordcoalition.org.uk/2014/02/28/sex-and-relationships-education-guidance-must-be-followed-by-government-action/>

Awad, M. (2009). British Muslims rally against sex ed plans. Al Arabiya News. 24 June. Retrieved from: <http://www.alarabiya.net/articles/2009/06/24/76916.html>

Barber, B. (2011). Letter to Michael Gove. Retrieved from: <http://adam1cor.files.wordpress.com/2012/02/bb-m-gove-11-11.doc>

Bassett, D., Lyon, G., Tanner, W. and Watkin, B. (2012). Plan A+: Unleashing the potential of academies. March. Retrieved from: http://reform.co.uk/resources/0000/0385/Plan_A__FINAL.pdf.

Bell, M., & Cumper, P. (2003). Section 28 after the Human Rights Act. *Journal of Social Welfare and Family Law*, 25, 215-228.

Bingham, J. (2013). Welby calls for Church to join the sexual “revolution”. *Daily Telegraph*, 5 July.

Bingham, J. (2014). Role of religion in schools under pressure after Trojan Horse scandal. Daily Telegraph. 14 August.

Blair, A. and Monk, D. (2009). Sex education and the law in England and Wales: the importance of legal narratives. In Sauerteig, L.D.H. and Davidson, R. (Eds.), *Shaping sexual knowledge: A cultural history of sex education in twentieth century Europe* (pp. 37-54). London: Routledge.

British Humanist Association. (2013). Memorandum submitted to the House of Commons Public Bill Committee on the Children and Families Bill 2012-13. 6 March 2013.

Brook (2014). SRE supplementary advice. 28 February. Retrieved from: <http://www.brook.org.uk/index.php/information/sre-supplementary-advice>

Butt, R. (2011). Gove defends faith schools The Guardian, 17 February 2011.

Catholic Education Service (2014). Written evidence (SRE0432). Commons Education Committee, Inquiry into Personal, Social, Health and Economic Education (PSHE) and Sex and Relationships Education (SRE), June.

Catholic Voices (2011)., 'New guidance on what constitutes a Catholic School's ethos'. 12 October. Retrieved from: <http://www.catholicvoices.org.uk/monitor-blog/2011/10/new-guidance-what-constitutes-schools-catholic-ethos>

Christian Concern (2014). Our concerns: Education. Retrieved from: <http://www.christianconcern.com/our-concerns/education>

Christian Institute (1999). Bankrolling gay proselytism: the case for extending Section 28, Retrieved from: <http://www.christian.org.uk/html-publications/bankrollinggayproselytism.htm#s28>

Christian Institute (2006). Curriculum in the courtroom: How new laws will give activists the power to sue schools. Christian Institute: Newcastle upon Tyne.

Christian Institute (2009). Parents face prosecution over gay lessons protest, 9 March, Retrieved from: <http://www.christian.org.uk/news/parents-face-prosecution-over-gay-lessons-protest/>

Christian Institute (2012). A great life remembered: Baroness Young 1926-2002, Retrieved from: <http://www.christian.org.uk/news/a-great-life-remembered-baroness-young-1926-2002/>

Church of England (2014). Homosexuality. Retrieved from: <http://www.churchofengland.org/our-views/marriage,-family-and-sexuality-issues/human-sexuality/homosexuality.aspx>

Church of England Parliamentary Unit (2013). Marriage (Same Sex Couples) Bill: Commons Report and Third Reading Briefing. 16 May 2013. pp.2-3.

Coalition for Marriage (2012). Gay marriage in primary schools: the impact of redefining marriage on education. London: Coalition for Marriage.

Coalition for Marriage (2013). Press release: 40,000 teachers face being disciplined or sacked as they set out to defy Cameron over marriage. 3 February. Retrieved from: http://www.politicshome.com/uk/article/71380/the_coalition_for_marriage_40000_teachers_face_being_disciplined_or_sacked_as_they_set_to_defy_cameron_over_gay_marriage.html

Coalition for Marriage (2013). Respecting beliefs about marriage: A guide for schools and teachers in England and Wales. Retrieved from: <http://c4m.org.uk/downloads/respecting-beliefs-about-marriage.pdf>

DePalma, R. and Atkinson, E. (2009). 'No Outsiders': moving beyond a discourse of tolerance to challenge heteronormativity in primary schools. *British Educational Research Journal* 35, 837-55.

Department for Education (2011). Schools, pupils and their characteristics: January 2011, <https://www.gov.uk/government/publications/schools-pupils-and-their-characteristics-january-2011>. London: Department for Education.

Department for Education (2013a). Equality Act 2010: Advice for School Leaders, School Staff, Governing Bodies and Local Authorities, February. London: Department for Education.

Department for Education (2013b). Free schools, Retrieved from:
<http://www.education.gov.uk/schools/leadership/typesofschools/freeschools>

Department for Education (2013c). National Curriculum in England: Citizenship programmes of study for key stages 3 and 4. London: Department for Education.

Department for Education (2013d). National Curriculum in England: Framework Document for Consultation. London: Department for Education.

Department for Education (2013e). National Curriculum in England: Framework for Key Stages 1 to 4. London: Department for Education.

Department for Education (2013f). National Curriculum in England: Science Programmes of Study. London: Department for Education.

Department for Education (2013g). Reform of the National Curriculum in England: Equalities Impact Assessment. London: Department for Education.

Department for Education (2014). Schools, pupils and their characteristics: January 2014, <https://www.gov.uk/government/publications/schools-pupils-and-their-characteristics-january-2014>

Department for Education and Employment (2000). Sex and relationships education guidance (DfEE 0116/2000). London: HMSO.

Dwyer, J.G. (2001). Religious schools v. children's rights. Cornell, NJ: Cornell University Press.

Equality and Human Rights Commission (2013). Technical guidance for schools in England. Equality and Human Rights Commission.

Evangelical Alliance (2014). Written evidence (SRE0226). Commons Education Committee, Inquiry into Personal, Social, Health and Economic Education (PSHE) and Sex and Relationships Education (SRE), June.

Evert, J. (2011). *Pure Manhood*. San Diego, CA: Catholic Answers.

Flanagan, P. (2014). Gay teacher resigns after parent protest. *The Daily Telegraph*. 7 April.

Flint, J. (2007). Faith schools, multiculturalism and community cohesion: Muslim and Roman Catholic state schools in England and Scotland. *Policy & Politics* 35, 251-68.

Furniss, C. and Blair, A. (1997). Sex wars: Conflict in, and reform of, sex education in maintained secondary schools. *Journal of Social Welfare and Family Law*, 19, 189-202.

Gove, M. (2012). Letter to Brendan Barber, 26 January, Retrieved from:
<http://adam1cor.files.wordpress.com/2012/02/michael-gove-letter-260112.pdf>

Greaves, M. (2011). Gove: Catholic schools can escape “meddling” by becoming academies, *Catholic Herald*. 16 February.

Guasp, A. (2012). *The school report: The experiences of gay young people in Britain's schools in 2012*. Stonewall and Centre for Family Research and University of Cambridge.

Hand, M. (2007). Should we teach homosexuality as a controversial issue?, *Theory and Research in Education*, 5: 69-86.

Higginson, A.J. (2013). Faith schools: What really goes on behind closed doors?. *Huffington Post*. 4 July, Retrieved from: http://www.huffingtonpost.co.uk/A.J.%20Higginson/faith-schools-what-really-goes-on_b_3545981.html

Holy Family Catholic School (2012). Religious education. Retrieved from:
http://www.holyfamily.ngfl.ac.uk/index.php?option=com_content&view=article&id=65:art-re&catid=49:cat-re&Itemid=95

Johnson, P. (2005). *Love, heterosexuality and society*. London: Routledge.

Joint Committee on Human Rights. (2007). *Legislative scrutiny: Sexual Orientation Regulations (Sixth Report of Session 2006-07)*. London: HMSO.

Joint Committee on Human Rights. (2009). *Legislative scrutiny: Equality Bill (Twenty-sixth Report of Session 2008-09)*. London: HMSO.

Littlejohn, R. (2009). Celebrate gay history. P-p-pick up a penguin. *Daily Mail*. 10 March.

Long, R. (2011). *Sex and relationships education in schools*. House of Commons Library. 31 October.

Macdonald, A. (2009). *Independent review of the proposal to make personal, social, health and economic (PSHE) education statutory*. London: Department for Children, Schools and Families.

Marples, R. (2014). Parents' rights and educational provision. *Studies in Philosophy and Education*, 33, 23-39.

Meredith, C. (2014). LGBT rights groups slam reports gay teacher, Andrew Moffat, was "forced to resign" by religious parents. *Huffington Post*. 8 April. Retrieved from: http://www.huffingtonpost.co.uk/2014/04/08/gay-teacher-andrew-moffat_n_5109952.html

Monk, D. (2001). New guidance/old problems: recent developments in sex education. *Journal of Social Welfare and Family Law*, 23, 271-291.

Muslim Council of Britain. (2012). *Muslims Defending Marriage*. Retrieved from: <http://www.mdm-campaign.org.uk> (archived at Retrieved from: <http://archive.is/Ydqy>)

National Secular Society (2012). *Catholic Education Service rebuked for blurring distinction between faith and politics in schools*. 20 June. Retrieved from: <http://www.secularism.org.uk/news/2012/06/catholic-education-service-rebuked-for-blurring-distinction-between-faith-and-politics-in-schools>

National Society Church of England. (2014). Written evidence (SRE0419). Commons Education Committee, Inquiry into Personal, Social, Health and Economic Education (PSHE) and Sex and Relationships Education (SRE). June.

Ofsted. (2002). Sex and relationships education (HMI 431). London: Ofsted.

Ofsted. (2012). No place for bullying: How schools create a positive culture and prevent and tackle bullying. June. London: Ofsted.

Ofsted. (2013a). *Exploring the school's actions to prevent and tackle* homophobic and transphobic bullying. September. London: Ofsted.

Ofsted. (2013b). Not yet good enough: Personal, social, health and economic education in schools. London: Ofsted.

Ofsted. (2014a). Inspection report: Park View School Academy of Mathematics and Science, 5–6 and 17–18 March 2014. London: Ofsted.

Ofsted. (2014b). Written evidence (SRE0443). Commons Education Committee, Inquiry into Personal, Social, Health and Economic Education (PSHE) and Sex and Relationships Education (SRE). June.

Pilcher, J. (2005). School sex education: policy and practice in England 1870 to 2000. *Sex Education* 5, 153-70.

Qualifications and Curriculum Authority. (2007a). Citizenship: Programme of study for key stage 3 and attainment target. London: Department for Education.

Qualifications and Curriculum Authority. (2007b). Science: Programme of study for key stage 3 and attainment targets. London: Department for Education.

Rasmussen, M.L. (2006). *Becoming subjects: sexualities and secondary schooling*. London: Routledge.

Razaq, R. (2012). Jewish school in storm over US 'gay conversion' group. London Evening Standard. 20 January.

Reeves, R. (2000). The gay law furore that ignited Middle England. The Guardian. 30 January.

Richardson, J. and Parnell, P. (2007). *And Tango makes three*. London: Simon and Schuster.

Sauerteig, L.D.H. and Davidson, R. (2009). Shaping the sexual knowledge of the young: Introduction. In Sauerteig, L.D.H. and Davidson, R. (Eds.), *Shaping sexual knowledge: A cultural history of sex education in twentieth century Europe* (pp. 37-54), London: Routledge.

Sex and Relationships Education (SRE) for the 21st Century (2014). London: Brook, the PSHE Association, and the Sex Education Forum.

Shaw, M. and Maddern, K. (2009). The week. Times Educational Supplement. 13 March, p.2.

Stanford, P. (2012). George Carey: time to say that Christians have rights too. The Daily Telegraph. 11 February.

Stonewall. (2014). Education resources: 'Oh no, not the gay thing!'. Retrieved from: http://www.stonewall.org.uk/at_school/education_for_all/quick_links/education_resources/4009.asp

Teahan, M. (2012). Welsh Government tells Catholic schools to give a 'balanced perspective' on same-sex marriage. CatholicHerald. Retrieved from: <http://www.catholicherald.co.uk/news/2012/05/10/welsh-government-tells-catholic-schools-to-give-a-balanced-perspective-on-same-sex-marriage/>

Teahan, M. (2013a). Gove rejects call to ban Catholic booklet from schools. CatholicHerald. 23 February. Retrieved from: <http://www.catholicherald.co.uk/news/2012/02/23/gove-rejects-call-to-ban-catholic-booklet-from-schools>

UK Youth Parliament. (2007). Sex and relationships education: Are you getting it? Retrieved from: <http://www.ukyouthparliament.org.uk/wp-content/uploads/AreYouGettingIt.pdf>

Vasagar, J. (2012). Catholic church urges pupils to sign anti-gay marriage petition, *The Guardian*. 25 April.

Wagner, A. (2012). Is it legal to teach gay hate in schools?, *UK Human Rights Blog*. 19 February. Retrieved from: <http://ukhumanrightsblog.com/2012/02/19/is-it-legal-to-teach-gay-hate-in-schools>

Westminster Faith Debates. (2013). New poll shows the debate on faith schools isn't really about faith. Retrieved from: <http://faithdebates.org.uk/wp-content/uploads/2013/10/WFD-Faith-Schools-Press-Release.pdf>

Wintemute, R. (2012). Homophobia and United Kingdom law: only a few gaps left to close. In L. Trappolin, L., Gasparini, A. and Wintemute, R. (Eds), *Confronting Homophobia in Europe: Social and Legal Perspectives* (pp. 233–64). Oxford: Hart Publishing.

YouGov (2014). YouGov / Jewish Chronicle survey results. Retrieved from: http://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/vv10ruzil4/JewishChronicle_Results_140408_faithschools.pdf