

Meeting:	Executive
Meeting date:	14 November 2024
Report of:	Director of Children Services and Education
Portfolio of:	Cllr Webb – Executive Member for Children, Young People and Education

Decision Report: Care Experience as a Protected Characteristic

Subject of Report

1. This report recommends that the local authority ensures people with care experience are treated as if it were a Protected Characteristic under the Equality Act 2010.
2. This means the Council will not directly or indirectly discriminate against people with care experience and will have regard to the need to advance equality of opportunity and foster good relations between people who have and do not have experience of being in local authority care.
3. Care experienced young people have undertaken extensive consultation and research to develop this recommendation. This proposal comes directly from care experienced young people raising this through our Corporate Parenting Board. Agreeing to the recommendation would be a strong demonstration of the council directly respond what young people are asking for.
4. Whilst we recognise this will not have the same legal status as other protected characteristics it is still an important step in strengthening our commitment as corporate parents.

Benefits and Challenges

5. There is a wealth of national evidence that shows care experienced young people often face discrimination and stigma across many aspects of their lives including housing, health, education, relationships, employment and in the criminal justice system.
6. By treating care experience as if it were a protected characteristic, we would hope to:
 - a) **Reduce the discrimination** and bias faced by care experienced young people and ensure people are not judged or disadvantaged because of their background.
 - b) **Improve life outcomes** (for example; education, employment, well-being as well as physical and mental health).
 - c) **Create greater awareness** of care leavers needs and encourage acceptance and support. This would reduce social stigma that can come with being in care and challenge harmful stereotypes.
 - d) **Empower** care experienced people to challenge when they encounter barriers and to encourage them to pursue their goals.
7. It is important to acknowledge the potential challenges in implementing this change.
 - a) Whilst as a council we would treat this as if it were a protected characteristic, it does not have a legal status. The council would need to ensure our local frameworks enforce this status and that it is not tokenistic.
 - b) We have made great strides in improving corporate parenting responsibility across the council. Treating care experience as if it were a protected characteristic will take this further and would require work to raise awareness and ensure it delivers meaningful change.
 - c) While this would help reduce stigma there is a risk that it could in some cases reinforce stigma and negative stereotypes.
8. Treating Care Experience as if it were a protected characteristic would mean that we would apply the same principles as we currently do with other protected characteristics. We would need to revise our Equalities Impact Assessment as well as other council policies to

reflect that we are treating care experience as if it were a protected characteristic.

Policy Basis for Decision

9. The Independent Review of Children's Social Care published in May 2022, included recommendations that the "Government should make Care Experience a protected characteristic". It also noted that making care experience a protected characteristic would provide greater authority to employers, businesses, public services, and policy makers to put in place policies and programmes which promote better outcomes for care experienced people.
10. In its response: Children's social care: stable homes, built on love (February 2023), the then government advised that: "Our ambition remains to extend corporate parenting responsibilities to other government departments and relevant public bodies, subject to legislation (when parliamentary time allows). We believe this will ensure that policies and services that affect children in care and care leavers better take account of the challenges that they face and provide opportunities for them to thrive."
11. Although the recommendation to make care experience a legally protected characteristic has not been adopted by central Government, many local authorities have taken forward the motion to adopt this recommendation locally. To date over 100 local authorities have so far agreed to treat care experience as a locally protected characteristic, recognising the disadvantage and stigma faced by those with care experience.
12. We should be proud of the progress we are making in the city to be a better corporate parent. However, there is more work to be done to improve the life chances of those young people through adulthood, and this calls for a systemic response from services across the council and partner organisations. Treating care experience as if it were a protected characteristic would help to address the lifelong inequalities faced by many people who have spent time in the care of any local authority as a child and who live in York as an adult.
13. Our corporate Equity, Diversity & Inclusion Strategy aims to ensure we deliver on our commitments and, drive change at all levels of the Council. York is currently refreshing its Equity, Diversity and Inclusion Strategy and this will be launched in the new year. The treatment of care experience as if it were a protected characteristic is strongly

aligned to the ambitions set out in our new Equity, Diversity & Inclusion Strategy.

Financial Strategy Implications

14. We do not expect to create any new financial liabilities as a result of treating care experience as if it were a protected characteristic. The aim would be to ensure the potential positive or negative impact on care experienced people is considered in how the council designs and delivers services.

Recommendation and Reasons

15. It is recommended that the Executive agree to treat care experience as if it were a protected characteristic.
16. If agreed that officers work to update as necessary corporate frameworks such as the Equality Impact Assessment and other council policies. The implementation of this recommendation will be closely aligned to the implementation of the council's new Equity, Diversity & Inclusion Strategy.

Background

17. There is arguably no greater responsibility the council holds than as corporate parent to children and young people in care. As corporate parents we have committed to ensuring our decisions are shaped by the views and experiences of care experienced children and young people.
18. In February 2024 the Council Executive agreed our new Corporate Parenting Strategy (2024-2027). The Corporate Parenting Strategy for the City of York outlines our ambitions for children and young people who are looked after by us, the local authority, as their corporate parents. The strategy also sets out our long-term aspirations for care experienced young people as they become adults.
19. The Corporate Parenting Board locally includes direct input from young people and has given thoughtful consideration to treating care experience as if it were a protected characteristic. This is to ensure it can be both meaningful and truly is an action that will address some of concerns raised by young people. In June 2024 the Corporate

Parenting Board agreed treating care experience as if it was a protected characteristic was the right thing to do and that has resulted in this recommendation to Executive.

20. A person becomes care experienced when they have been in the care of a local authority. The definition we will use for care experience will mirror that of the Enhance Offer for Care Leavers (www.york.gov.uk/looked-children/local-offer-care-leavers/4).
21. In its commitment to be the best corporate parent possible the council should use all influence it has to encourage and expect partner agencies to also treat care experience as if it were a protected characteristic. This would help to extend the reach of this positive change beyond the direct reach of the council.

Consultation Analysis

22. In recent years we have taken clear steps to strengthen young people's voice and influence in how we work as Corporate Parents. This includes developing a model of care experienced 'Corporate Parenting Advisors' to help young people have a voice and be heard. Our Corporate Parenting Board is now co-chaired with care experienced young people.
23. The recommendation to treat care experience as if it were a protected characteristic has come directly from young people. Corporate Parenting Advisors and care experienced people carried out surveys and face-to-face consultation over a number of months. They carefully considered the views of care experienced young people as well the views of key professionals and foster carers.
24. Working together with care experienced young people we have explored all options around treating care experience as if it were a protected characteristic. We know that a number of local authorities have already agreed similar proposals with varying degrees of impact.
25. In June 2024 the Corporate Parenting Board heard directly from care experienced young people. The report, written by care experienced people, provided a clear conclusion:
 - a) **“There have been some concerns regarding if the protected characteristic would create more stigma for care experienced people. After evaluation of our**

consultation and in-depth conversations with care experienced young people, it is acknowledged that the stigma already exists and sadly experienced. Therefore the benefits of the motion being passed outweighs the current concerns. “

b) “We feel that the passing of the motion would accurately represent the extension of corporate parenting responsibilities by ensuring our care experienced young people are provided with the most equal opportunities, free from stigma and discrimination. Every service within the local authority would be obligated to consider the impact of their decisions and this would not be reliant of the disclosure of care experience status.”

c) “On behalf of York’s Children in Care Council and Care Leavers Forum and the wider views of care experienced young people in York, we are asking the authority to further discuss the prospect of passing this motion and support our care experienced young people to lead a life, free from discrimination, stigma, and prejudice. As corporate parents, the council has a responsibility to ensure that the children and young people that are in or have been in our care receive the same opportunities that we would want for our own children. So, we ask – Would you want this for your child?”

26. This is one of a growing number of examples of the Corporate Parenting Board working together with young people to make a real difference.

27. Treating care experience as if it were a protected characteristic would be overseen through the same framework as the council’s wider Equity, Diversity & Inclusion Strategy. Alongside this the Corporate Parenting Board will continue to track and challenge the impact of this change and report progress through its annual Corporate Parenting Board report.

Options Analysis and Evidential Basis

28. **Option 1:** That the Executive agrees to treat care experience as if it were a protected characteristic.
29. Direct that officers work to update as necessary corporate frameworks such as the Equality Impact Assessment and other council policies. This will be aligned with the implementation of the council's new Equity, Diversity & Inclusion Strategy.
30. **Option 2:** That care experience is not treated as if it were a protected characteristic. This option would disregard the direct feedback and recommendations made by care experienced young people. The council's statutory responsibilities as Corporate Parents would remain.

Organisational Impact and Implications

31. **Financial** – There are not expected to be any direct financial implications from agreeing to the recommendations beyond the officer time in updating existing corporate policies and frameworks, which will be contained within existing resources.
32. **Human Resources (HR)** - Agreement to recognise care experience as a local protected characteristic does not provide the same legal employment protections as is provided to the nine protected characteristics covered under the Equality Act 2010. This distinction will need to be made clear in any communications and changes to policy.
33. The Council currently has a Guaranteed Interview scheme for care experienced young people who have been in care with City of York Council and are aged 25yrs or under and meet the essential criteria for the role. Any amendments to the scope of who is care experienced will have implications on recruitment processes.
34. Any changes to HR policies will need to be considered in due course.
35. **Legal** – The move to treat care experience as if it were a protected characteristic is a positive step. It helps to further develop the ethos of corporate parenting in which a sense of vision and responsibility towards care leavers is a priority for everyone. The Council must have regard to the corporate parenting principles set out in the

Children and Social Work Act 2017 whenever it exercises a function in relation to looked-after children or care leavers.

It is important to note that the council does not have the powers to give care experience the same legal status as the protected characteristics named for Equality Act purposes. However the council can choose to treat care experience as if it were a protected characteristic.

36. **Procurement** – There are no identified procurement implications.
37. **Health and Wellbeing** - The principles behind the recommendation to treat "care experienced" as a protected characteristic are sound.
38. There is some evidence that inequalities exist for those "care experienced", including increased risk of poor health, both physical and mental, mortality, poverty and educational attainment to name a few. This recommendation fits well with the Marmot Review (2010) that a child deserves "the best start in life" and enabled to "maximise their capabilities and have control over their lives". A child in care often does not receive this best start or realise their opportunities. One of the core commitments of the Council Plan is to improve health and wellbeing and reduce inequalities.
39. Lastly, we should support the recommendation as it supports the views of those who have experienced care. Inclusion of care experience as a protected characteristic would enable care experienced people who have faced direct discrimination to address its effect on their lives.
40. **Environment and Climate action** – No climate change implications identified.
41. **Affordability** – This report should ensure that rights and obligations related to care experienced people are properly considered and hopefully maximise opportunities and life chances.
42. **Equalities and Human Rights** – Adopting care experience as a protected characteristic would have significant equalities and human rights implications, particularly within the context of the council's updated Equity, Diversity, and Inclusion (EDI) strategy. It would require the council to ensure that individuals with care experience are not discriminated against and are afforded equal

opportunities. The council would need to consider how care-experienced individuals may face unique social, economic, and emotional challenges, leading to potential disadvantages. The Equity, Diversity and Inclusion strategy is currently being updated and will be launched in early 2025. This will be key in addressing the implications arising from this paper.

43. **Data Protection and Privacy** - The data protection impact assessment (DPIAs) screening questions were completed for the recommendations and options in this report and as there is no personal, special categories or criminal offence data being processed to set these out, there is no requirement to complete a DPIA at this time. However, this will be reviewed following the approved recommendations and options from this report and a DPIA completed if required.
44. **Communications** – There are no direct communications implications. Should the recommendation be agreed the changes will be shared with care experienced people.
45. **Economy** - There are no direct economic implications arising from this proposal.

Risks and Mitigations

46. This change should not be tokenistic and will need sustained commitment from all parts of the local authority in order to deliver meaningful change.
47. As noted earlier in the report there is a risk that this change could in some cases reinforce stigma and negative stereotypes. It is for this reason that the change in policy should be supported with information and training to improve understanding and awareness across the local authority.

Wards Impacted

48. All.

Contact details

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Report approved:	Yes
Date:	08/10/2024

Background papers

Independent Review of Children's Social Care

<https://www.gov.uk/government/groups/independent-review-of-childrens-social-care>

Children's Social Care Stable Homes Built on Love

[https://assets.publishing.service.gov.uk/media/650966a322a783001343e844/Children s Social Care Stable Homes Built on Love consultation response.pdf](https://assets.publishing.service.gov.uk/media/650966a322a783001343e844/Children_s_Social_Care_Stable_Homes_Built_on_Love_consultation_response.pdf)

Statutory Guidance on applying corporate parenting principles

https://assets.publishing.service.gov.uk/media/5a93eb3ae5274a5b87c2fde4/Applying_corporate_parenting_principles_to_looked-after_children_and_care_leavers.pdf

Annexes

Annex A – Equalities Impact Assessment.