

Care Experience as a Protected Characteristic

Date: 7th February 2024

Report of: Director of Children and Families

Report to: Executive Board

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

The Executive Board is asked to agree that 'care experience' is recognised as a locally protected characteristic by Leeds City Council. This demonstrates our commitment as a Corporate Parent to ending the disparity and inequality faced by care experienced young people by going beyond our statutory requirements and ensuring that the needs of care experienced young people are at the heart of all our decision-making alongside other groups who formally share a Protected Characteristic. It is the intention that Leeds City Council will recognise care experience as a protected characteristic for the life of the individual. In making this decision, Leeds City Council is joining a list of 57 other councils who have formally agreed to make being 'care experience' a protected characteristic. This is in response to a national campaign led by care experienced people.

Recommendations

The report recommends that the Executive Board:

- a) Recognises that care experienced people are a group likely to face discrimination.
- b) Enshrines care experience as a locally protected characteristic and calls upon all other local organisations and partners to treat care experience as a locally protected characteristic to be adopted with the Corporate Parenting Principles.
- c) Agrees that the Council will amend its Equality and Diversity Policy to include care experience as a Locally Protected Characteristic.
- d) Agrees that the Council will amend its Equality Impact Assessment (EIA) process and associated guidance, to include care experience as an additional category to be considered for any changes or improvements to future services and policy.
- e) Agrees that the Council will include care experience in the publication and review of Equality Objectives and annual information relating to protected characteristics.

- f) Agrees to delegate responsibility to the Director of Children & Families, in consultation with the Executive Member for Children's Social Care & Health Partnerships, to set up a time limited implementation group which will develop an action plan, co-produced with care experienced individuals, to support Council services to embed the amended Equality and Diversity Policy and EIA guidance and establish a cross-council approach to creating opportunities for care experienced people.

What is this report about?

- 1 Despite their resilience, care experienced people face significant barriers that impact them throughout their lives; however, society often does not take their needs into account. Care experienced people often face discrimination and stigma across housing, health, education, relationships, employment and in the criminal justice system and have poor outcomes in these areas.
- 2 A person becomes care experienced when they have been in the care of a local authority. Some people who leave care during their childhood will also qualify as care experienced people and be in scope of the proposals in this report, as will adults who were in the care of other local authorities as children but now live in Leeds as adults.
- 3 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.
- 4 In its response: Children's social care: stable homes, built on love (February 2023), 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.*"
- 5 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. In response to the national campaign led by Terry Galloway, co-founder of the website Care Leaver Offer, around 57 local authorities have so far introduced care experience as a locally protected characteristic, recognising the disparity and disproportionality faced by those with care experience in relation to poor health, education, housing, employment, and criminality amongst other indicators.
- 6 Local authorities in England hold corporate parenting responsibilities and statutory duties to some groups of care experienced young people, specifically young people, and adults between the age of 16 years and 25 years who have a legal care leaver status as constituted by the Children Act 1989, the Children Leaving Care Act 2000 and subsequent legislation. In Leeds, we are working hard to improve the life chances of care leavers. Our Care Leavers Service was judged outstanding by Ofsted, who reported that young people feel valued, listened to and respected. The service provides a range of support within the Care Leaver Local Offer,

including a care leavers community hub, and partnerships with community services and housing services. The local offer and hub offer have been significantly developed to provide for the needs of care leavers in Leeds and will be further enhanced by the implementation of the Staying Close Programme following the award of £2.5m of government funding over 2 years. The Staying Close programme will support young people leaving residential care to live locally to their former home and to retain links as they grow as young adults.

- 7 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 a locally protected characteristic would help to address the lifelong inequalities faced by many people who have spent time in the care of a local authority as a child and who live in Leeds as an adult.
- 8 Evidence shows that people with care experience are more likely to experience poorer outcomes across a range of indicators. Table 1 below shows some specific areas where care experienced people are disproportionately impacted and disadvantaged as a result of being in care:

Education	Studies have shown that care experienced children are less likely to achieve good grades and go on to higher education than their non-care-experienced peers. They are also more likely to be excluded from school and experience disrupted education due to frequent placements and changes in schools. Leeds children looked after typically perform well in their education outcomes compared to national or local comparators, being several points higher in attainment and achievement as well as having a lower rate of suspensions in 2021/2022. However, there is still a large gap between children looked after and all pupils in terms of education outcomes which matches the national picture. 68.3% of Leeds children achieved a standard pass in English and Maths in 2021/2022, compared to 30.9% of looked after children who achieved the same.
Employment	Care experienced individuals may face significant barriers when it comes to employment, including a lack of qualifications and work experience, as well as stigma and discrimination. This can lead to a higher risk of unemployment and poverty. For care leavers aged 19-21 years nationally 38% were not in education, employment or training (NEET), compared to around 11% of all young people aged 19 to 21 years old (Education, 2022). In Leeds, this figure in 2022 was 33% not in education employment and training. Three times higher than the same figure for people who are not care experienced.
Mental Health	Care experienced individuals are more likely to experience mental health issues such as anxiety, depression, and post-traumatic stress disorder (PTSD). Population level data for Leeds care leavers is not available, however consultation work with Leeds Care Leavers indicates that they find accessing mental health support difficult and that services do not understand their experiences and needs.

Homelessness	<p>Care experienced people are much more likely to be homeless or found to be intentionally homeless than their peers in the general population. The All-Party Parliamentary Group for Ending Homelessness reported in 2017 that ‘<i>One third of care leavers become homeless in the first two years immediately after they leave care and 25% of homeless people have been in care at some point in their lives</i>’. The report also highlighted that care leavers in custody were at a much higher risk of becoming homeless, entering a cycle of repeat homelessness and custody, and recommended removing intentional homelessness for care leavers as a way of tackling this inequality. (Homelessness, 2017). In October 2023, Become, the national charity for children in care and care leavers, also reported that figures in the government’s annual <i>Statutory Homelessness in England Report</i> found that the number of care leavers facing homelessness has increased 33% since 2018, rising three times as fast as the overall number of households facing homelessness (becomecharity.org.uk/press-release-33-increase-in-homelessness-among-care-leavers)</p> <p>Care leavers in Leeds do better than the national average for care leavers, with 93% in touch with the service living in accommodation that was appropriate. LCC Housing have a long-standing policy of providing additional support to Care Leavers and this is reflected in the positive performance here.</p>
Criminal Justice	<p>Children in care are much more at risk of interacting with the Criminal Justice System by the age of 24 than their peers. National figures indicate that over half (52%) of care experienced children had been convicted of a criminal offence by the academic year they turned 24 compared with 13% who had not been in care (Office of National Statistics, 2022).</p> <p>In Leeds, our most recent data indicates that 1 in 6 of the Youth Justice cohort were children looked after, a significant over representation. Childhood involvement in the Criminal Justice System is the pre-eminent risk factor for adult involvement, indicating that Leeds CLA are likely to continue to be overrepresented within the Criminal Justice System.</p> <p>Care leavers are overrepresented in the adult prison population and are more likely to be criminalised than the general population of their peers with no experience of care. Ministry of Justice and Department for Education (DfE) data highlights that over a third of the adult prison population identified as having been care experienced as a child (Policy-briefing-Kate-Hunter.pdf (arduk.org)).</p>

9 In addition, care leavers and care experienced people are also more likely to have needs arising from other protected characteristics that intersect and are impacted by the inequality arising from their care experience. Government statistics collected nationally by the DfE indicate that children from ethnically diverse communities were over-represented in the numbers of children in care and within the criminal justice system. Care leavers are more likely to identify as having a disability or long-term health condition that impacts upon their quality of life, health and wellbeing. (Linda Briheim-Crookall, 2020). Care experienced adults with SEND needs are also

significantly disproportionately represented in the adult prison population. (Hunter, 2022) (Office of National Statistics, 2022)

- 10 In view of the lived experience of these individuals, the Executive Board is asked to agree that 'care experience' is recognised as a locally protected characteristic by Leeds City Council. This demonstrates our commitment as a Corporate Parent to ending the disparity and inequality faced by care experienced people by going beyond our statutory requirements and ensuring that an understanding of the lifelong impact for these individuals of having spent time in care is at the heart of all our decision-making, as it is for other groups who formally share a legally protected characteristic. This would apply to individuals who now live in Leeds but were in the care of another local authority during their childhood.
- 11 In Leeds we have a well-established and vocal Care Leavers Council. This proposal is a response to consultation with our care leavers and will continue to be developed with them. It follows the deputation being brought to Full Council in January, which gives insight into their personal experiences and which requests that Leeds City Council adopts care experience as a protected characteristic.

What impact will this proposal have?

- 12 Introducing 'care experience' as a locally protected characteristic has significant implications for equality. It acknowledges the unique challenges and experiences faced by care experienced individuals and recognises the need for specific protections and support. By including care experience as a protected characteristic, the council demonstrates a commitment to addressing the inequalities and barriers faced by this marginalised group. It ensures that care experienced individuals are afforded the same rights, opportunities, and access to services as other protected groups. This recognition not only promotes fairness and social justice but also encourages greater inclusivity within the council. It creates a platform for care experienced individuals to have their voices heard, their experiences valued, and to support their needs being met.
- 13 Adoption of care experience as a locally protected characteristic will augment the existing statutory Corporate Parenting principles followed by the Council and set out in section 1 of the Social Work Act 2017
 - to act in the best interests, and promote the physical and mental health and wellbeing, of children and young people
 - to encourage children and young people to express their views, wishes and feelings
 - to take into account the views, wishes and feelings of children and young people
 - to help children and young people gain access to, and make the best use of, services provided by the local authority and its relevant partners
 - to promote high aspirations, and seek to secure the best outcomes, for children and young people
 - for children and young people to be safe, and for stability in their home lives, relationships and education or work; and

- to prepare children and young people for adulthood and independent living.

- 14 In addition, it will provide a platform for the Council to formally call upon other bodies, services, and partners to treat care experience as a locally protected characteristic and to adopt the Corporate Parenting Principles, until such time as they may be introduced by legislation.
- 15 As Corporate Parents we want the best for children in care and care leavers. By enshrining care experience as a locally protected characteristic, Leeds City Council will be enabled to take positive action to address the impact of structural disadvantage, reduce social inequalities faced by care experienced young people, and improve lifelong outcomes for this group.
- 16 Enabling people through education and employment to earn higher wages and have greater security of employment is crucial. As a Corporate Parent Leeds runs a sizeable organisation - Leeds City Council. The 'family business' has been coined to reflect how Corporate Parents might offer employment opportunities to their children looked after and care leavers, as might be expected in a traditional family business. Examples of how other organisations have achieved this includes guaranteeing care experienced people an interview, specific support with apprenticeships or developing specific training pathways to care experienced people. Enshrining care experience as a locally protected characteristic will create a platform for Leeds City Council and partners to explore actions that will create opportunities for this group.
- 17 Agreement to the proposal will require the Council to amend its Equality and Diversity Policy to include care experience as a locally protected characteristic; and to amend the Equality Impact Assessment (EIA) process and associated guidance to include care experience as an additional category to assess the impact of changes to services and policy for this group. This will put the voices, needs, priorities and rights of care experienced individuals at the heart of everything we do.
- 18 A further recommendation is proposed for the Executive Board to delegate responsibility to the Director of Children & Families, in consultation with the Executive Member for Children's Social Care & Health Partnerships, to set up a time limited implementation group. This will develop an action plan, co-produced with care experienced individuals, to support Council services to embed the amended Equality and Diversity Policy and EIA guidance, and to establish a cross-council approach to creating opportunities for care experienced people. This will include the implementation of specific measures that respond to the experience of care being recognised as a locally protected characteristic across Council services.
- 19 Approval of these recommendations will demonstrate our commitment to the young people who are, and have been, in our care, and our investment in supporting them to have prosperous, healthy, and happy futures.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 20 Adopting care experience as a locally protected characteristic aims to improve the lived experience and life chances of people with care experience, in line with the Council's Best City Ambition.
- 21 The Council is required by law to apply the Corporate Parenting Principles to children looked after and care leavers. This includes acting in the best interests and promoting physical and mental health and wellbeing; helping children looked after and care leavers gain access and make best use of services provided by the local authority and its partners; and to promote high aspirations and seek to secure the best outcomes for these children and young people.
- 22 The proposal will address the disparity and disproportionality faced by those with care experience in relation to health, education, housing, employment, and criminality amongst other indicators, by ensuring that the views and needs of care experienced people are taken into consideration by Council services when changes to services and policy are made, with the aim of improving the life chances, and thereby the health and wellbeing, of those individuals.
- 23 The proposal aims to tackle the impact of poverty for care experienced people by promoting positive action so that they are enabled to access the opportunities generated through economic growth in the city.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted?

Yes

No

- 24 The Service Manager for the Care Leavers Service, with the support of the Voice and Influence Team, has consulted with the Care Leavers' Council about the Council adopting care experience as a locally protected characteristic. They are fully supportive of the recommendations and a deputation of care leavers will be attending Full Council in January 2024 to ask the Executive Board to support this report.
- 25 The Council's internal mechanism for reflecting on care experience as a protected characteristic in council wide decision-making/equality assessments and any consultation undertaken has been discussed with the Equality Board and Staff Networks.
- 26 Consultation and engagement has also taken place with the Executive Member for Children's Social Care and Health Partnerships who is fully supportive of the proposal for the Council to adopt care experience as a locally protected characteristic and of the recommendation to set up a time-limited implementation group to develop an action plan, co-produced with care experienced individuals, to support Council services to embed the amended Equality and Diversity Policy and EIA guidance, and to establish a cross-council approach to creating opportunities for care experienced people.

What are the resource implications?

27 It is anticipated the implications around this decision will predominately relate to policy changes and, although this will involve Officer and Member time to develop and implement, it is not expected that any costs above those already budgeted for will be incurred.

What are the key risks and how are they being managed?

28 The report recommends recognising 'care experience' as a Protected Characteristic to demonstrate the Council's commitment to advancing equality of opportunity between those with care experience and those without and doing so in advance of possible national reform which would mandate this for all councils.

29 The recommendations of this report are intended to promote and increase equality of opportunity for care experienced people living in Leeds. In many instances, care experienced individuals will also have other protected characteristics recognised under The Equality Act 2010. It is expected that adoption of this proposal will enable the council to take positive action to understand and respond to the structural disadvantage and stigma care experienced people face and work to reduce social inequalities and improve lifelong outcomes for this group.

30 Protecting care experienced people against discrimination is similar to existing legal protections afforded to disabled individuals. Offering dedicated protection to care experienced people does not discriminate against those who have not been in care. A decision by the Executive Board to treat care experience as a protected characteristic would not provide the legal protection that flows from the Equality Act 2010 to individuals who are care experienced. In any communications about this decision, the Council should clarify the distinction between the legal protection provided for the groups listed in the Equality Act 2010, and the proposed changes to the Equality and Diversity Policy.

31 57 local authorities have already adopted care experience as a locally protected characteristic. There is a potential reputational risk to the Council, as an Outstanding local authority, should Leeds City Council not do the same.

What are the legal implications?

32 The Council has duties to provide support to care leavers under the Children Act 1989 (as amended by the Children and Social Work Act 2017). The proposals set out in this report will enhance and strengthen the Council's ability to carry out these duties. The recognition of care experience as a protected characteristic by the Council does not create any enforceable rights for those who have this characteristic. It is not presently one of the protected characteristics under the Equality Act 2010, in respect of which discrimination is unlawful.

Options, timescales and measuring success

What other options were considered?

33 The Children and Families Directorate could have chosen not to propose that the Council adopt care experience as a protected characteristic as there is no legal requirement for it to do so. However, this proposal demonstrates a significant commitment by the Council as a Corporate

Parent and will support Leeds City Council's Best City and Child Friendly City ambitions, and benefit the Council reputationally as an outstanding local authority for its Children's Services.

How will success be measured?

- 34 The Council's Equality and Diversity policy will be amended to include care experience as a locally protected characteristic and consideration of the needs of care experienced people and consultation with them about changes to services and policy will be evident in Equality Impact Assessments, strategies and plans.
- 35 To measure success, a further recommendation is made for the Council to Include care experience in the publication and review of Equality Objectives and annual information relating to protected characteristics.

What is the timetable and who will be responsible for implementation?

- 36 The Executive Board is recommended to delegate responsibility to the Director of Children & Families, in consultation with the Executive Member for Children's Social Care and Health Partnerships, to set up an implementation group to develop an action plan, co-produced with care experienced individuals to support Council Services to embed the amended Equality and Diversity Policy and EIA guidance, and to establish a cross-council approach to creating opportunities for care experienced people. The action plan will consider the implementation of specific measures that respond to the experience of care being recognised as a locally protected characteristic across Council Services.

Appendices

- EIA Screening Document

Background papers

- None