

# WEST NORTHAMPTONSHIRE COUNCIL CABINET

19<sup>th</sup> September 2023

Cllr Fiona Baker, Lead Member Children, Young People and Education  
Services

Report Title	Care Experienced to be seen as a Protected Characteristic
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## List of Approvers

Monitoring Officer	Catherine Whitehead	23/09/2023
Chief Finance Officer (S.151)	Martin Henry	23/09/2023
Other Director	Stuart Lackenby, Executive Director of People and Deputy Chief Executive	23/09/2023
Head of Communications	Becky Hutson	22/08/2023

## List of Appendices

**Appendix A** – Care Experienced to be seen as a Protected Characteristic Report

**Appendix B** – Protected Characteristics Briefing Report 14<sup>th</sup> June 2023 by Terry Galloway

### 1. Purpose of Report

- 1.1. To seek agreement to '**support and treat care experienced as if it were a Protected Characteristic**' until such time it becomes legislation recognising that care-experienced people are a group who are likely to face discrimination.
- 1.2. To seek agreement '**To Adopt the Corporate Parenting Principles**' until such time it becomes legislation.

## 2. Executive Summary

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- 2.1 The Independent Review of Children's Social Care, headed by Josh McCallister, published in May 2022, had a final report and recommendations that 'Care Experienced' should be made a Protected Characteristic in law, sitting beside other protected characteristics such as age, disability, race, and religion under the Equality Act 2010.
- 2.2 Many care-experienced people face discrimination, stigma, and prejudice daily, often finding it challenging to access further support. Public perceptions of care experience can sometimes centre on the idea that children are "irredeemably damaged, " which can lead to discrimination and assumptions being made.
- 2.3 While awaiting the outcome of the social care reforms, specifically for care experienced to be seen as a protected characteristic, 46 councils in England have already passed a Motion to consider care experienced as a protected characteristic.
- 2.4 As part of the review there is a recommendation to extend corporate parenting duties to other public bodies, to further support children in care and care leavers.
- 2.5 By considering Care Leavers as a Protected Characteristic, will expand our duties as a Corporate Parent.
- 2.6 **Corporate Parenting Principles**, currently there are 7 Corporate Parenting Principles:
  - 2.6.1 **Well-being**, to act in the best interests, and promote the physical and mental health and well-being, of children and young people.
  - 2.6.2 **Voice**, to encourage those children and young people to express their views wishes and feelings.
  - 2.6.3 **Heard**, to take into account the views wishes and feelings of those children and young people.
  - 2.6.4 **Aspirational**, to promote high aspirations and seek to secure the best outcomes for those children and young people.
  - 2.6.5 **Equality of Opportunity**, to help those children and young people gain access to and make the best use of services provided by the local authority and its relevant partners.
  - 2.6.6 **Relationships**, for those children and young people to be safe and for stability in their home lives, relationships and education or work.
  - 2.6.7 **Preparing for Adulthood**, to prepare those children and young people for adulthood and independent living.

- 2.7 The Government is looking at implementing an extension of corporate parenting to other public bodies beyond local authorities to lead a more comprehensive and integrated approach to supporting children in care and care leavers.
- 2.8 Extending these principles will enable:
- 2.8.1 **Increased Collaboration:** Encourages collaboration among public bodies to address the needs of care experienced individuals (this would be inconsistent if Care Leaver Status were not a protected characteristic)  
(In conjunction with protected characteristic)
  - 2.8.2 **Utilisation of Established Mechanisms:** By integrating care experience into Section 149 of the Equality Act 2010 and Equality Impact Assessments, which have been in place since 2010, organisations and public bodies can use established mechanisms. This makes it more accessible for those outside of social care who are already familiar with these processes.
  - 2.8.3 **Organisation-wide Responsibility:** As a protected characteristic, the responsibility to support care experienced individuals becomes an intrinsic part of an organisation's culture and decision-making process. It is no longer relegated to specialised teams but is a responsibility that permeates all levels of an organisation.
  - 2.8.4 **Legal Obligation Ensures Consistency:** The legal obligations associated with protected characteristics ensure that public bodies must systematically and consistently consider the needs and rights of care-experienced individuals. This guarantees a uniform approach across different regions and organisations.
  - 2.8.5 **Equitable Policy Development:** The incorporation of care experience into Equality Impact Assessments means that when policies are being developed or reviewed, the specific needs and challenges faced by care-experienced individuals must be considered. This results in more equitable policies that proactively address inequalities.
  - 2.8.6 **Enhanced Cross-Departmental Collaboration:** In local authorities, government departments and other organisations this approach would ensure better cross-departmental collaboration, as all departments would be legally required to consider care experience in their policies and decision-making processes.
- 2.9 In summary, recognising care experience as a protected characteristic feels like the right approach to ensure those who are care experienced are further supported. It not only enshrines the support for care-experienced individuals but also integrates this support into established mechanisms that public bodies are already familiar with. This ensures that supporting care experienced individuals is not an add-on, but a fundamental aspect of policy development and decision-making. The approach guarantees that policies are developed with equity in mind, ensuring that care experienced individuals have the support and opportunities they need to thrive.
- 2.10 As a Council, it needs to be noted that:

- 2.10.1 Care-experienced people face significant barriers that impact them throughout their lives.
  - 2.10.2 Despite the resilience of many care-experienced people, society too often does not take their needs into account.
  - 2.10.3 Care-experienced people often face discrimination and stigma across housing, health, education, relationships, employment, and the criminal justice system.
  - 2.10.4 Care-experienced people may encounter inconsistent support in different geographical areas.
  - 2.10.5 As corporate parents, councillors have a collective responsibility for providing the best possible care and safeguarding for the children who are looked after by us as an authority.
  - 2.10.6 All corporate parents should consider acting as mentors and be committed to hearing the voices of looked-after children and young people, and considering their needs in any aspect of council work.
  - 2.10.7 Councillors should be champions of the children in our care and challenge the negative attitudes and prejudice that exist in all aspects of society.
  - 2.10.8 The Public Sector Equality Duty requires public bodies, such as councils, to eliminate unlawful discrimination, harassment, and victimisation of people with protected characteristics.
- 2.11 The Council are already committed to supporting all children, and young people, and to ensure they have the best start in life possible, and already ensure care experienced children and young people are supported. We consider that recognising care experienced children and young people as a Protected Characteristic is the right step forward.

### 3. Recommendations

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- 3.1 It is recommended that Cabinet:
- a) Agrees to **'support and treat care experienced as if it were a Protected Characteristic'** until such time it becomes legislation.
  - b) Recognises that care-experienced people are a group who are likely to face discrimination.
  - c) Recognises that Councils have a duty to put the needs of disadvantaged people at the heart of decision-making through co-production and collaboration.
  - d) Agree **'To Adopt the Corporate Parenting Principles'** until such time it becomes legislation

This will mean:

- 3.1. Agreeing that future decisions, services, and policies made and adopted by the Council should be assessed through Equality Impact Assessments to determine the impact of changes on people with care experience alongside those who formally share a protected characteristic.
- 3.2. Agreeing that in the delivery of the Public Sector Equality Duty, the Council includes care experience in the publication and review of Equality Objectives and the annual publication of information relating to people who share a protected characteristic in services and employment.
- 3.3. Continuing to proactively be seeking out and listening to the voices of care-experienced people when developing new policies based on their views.
- 3.4. Formally calling upon other bodies to treat care experienced as a Protected Characteristic until such time as it may be introduced by legislation.
- 3.5. Formally calling upon all other bodies who work closely with children in care and care leavers to adopt corporate parenting principles for children in care and care leavers until such time as it may be introduced by legislation.

#### **4. Reason for Recommendations**

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- 4.1. The recommendations enable WNC to align with around 46 other Councils who have already committed to this.
- 4.2. The recommendation will prevent care experienced young people from having to face some of discrimination which other protected groups may face, supporting this enables us to start to level the playing field for this group of young people.
- 4.3. The recommendation supports the Councils corporate parenting responsibility and supports our Equality Policy.

#### **5. Report Background**

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- 5.1. The Independent Review of Children's Social Care, headed by Josh McCallister, published in May 2022, had a final report and recommendations that 'Care Experienced' should be made a Protected Characteristic in law, sitting beside other protected characteristics such as age, disability, race, and religion under the Equality Act 2010.
- 5.2. Many care-experienced people face discrimination, stigma, and prejudice daily, often finding it challenging to access further support.

- 5.3. The independent review argues that by recommending that care experience is made a Protected Characteristic under equalities legislation, outcomes for care leavers will drastically improve.
- 5.4. The review's outcome has been consulted, and the findings still need to be confirmed and published.
- 5.5. While awaiting the outcome of the reforms, specifically for care experienced to be seen as a protected characteristic, around 46 councils in England have already passed a Motion to consider care experienced as a protected characteristic.
- 5.6. Hearing testimony from care experienced people sharing the discrimination they have experienced, even from a very young age, such discrimination can be similar to other groups with a legally protected characteristic under the Equality Act (2010). So, while there may be ways that society can help reduce stigma and discrimination, including creating greater public consciousness on these issues, just as with other areas of equality, there is a case to go further. Therefore, the government should make care experience a protected characteristic.
- 5.7. Making care experience a protected characteristic would give employers, businesses, public services, and policymakers greater authority to implement policies and programs that promote better outcomes for care-experienced people. It will make the UK the first country globally to recognise care-experienced people in this way.

## **6. Issues and Choices**

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- 6.1. As outlined in above sections, no issues or Choices are set here.

## **7. Implications (including financial implications)**

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### **7.1. Resources and Financial**

There are no resources or financial implications arising from the proposals.

### **7.2. Legal**

There are no specific legal implications arising from the proposals.

The Campaign and the Review are recommending that the recommendation set here is made in Law.

### **7.3. Risk**

There are no significant risks arising from the proposed recommendations in this report.

### **7.4. Consultation and Communications**

7.4.1. There are no specific consultation and communications implications arising from the proposals, however by adopting the recommended approach the Council will send out a strengthened message around the actions being taken to help reduce barriers and discrimination for care experienced people across West Northants.

#### **7.5. Consideration by Overview and Scrutiny**

7.5.1. This has not been presented to Scrutiny.

#### **7.6. Climate Impact**

7.6.1. There is no Climate Impact.

#### **7.7. Community Impact**

7.7.1. Include consideration of any distinct community impact that may arise regarding the Council's area, or particular localities within that.

### **8. Background Papers**

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8.1. There are no background reports