

## Care Experience as a Protected Characteristic

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### Report of Corporate Management Team Councillor Ted Henderson, Cabinet Portfolio Holder for Children and Young People's Services Councillor Mamie Simmons and Councillor M Walton, Chair and Vice-Chair of the Corporate Parenting Panel

#### Electoral division(s) affected:

Countywide.

#### Purpose of the Report

- 1 To ask Full Council to agree that care experience be adopted as a protected characteristic in County Durham.

#### Executive summary

- 2 Josh McAllister was appointed by Government to undertake an independent review of Children's Social Care between July 2021 and May 2022. In his report, published in May 2022, he advocated for a legislative change to the Equality Act 2010 to include care experience as a protected characteristic. A copy of the report can be found [HERE: Independent review of CSC: final report - GOV.UK](#)
- 3 Although this legislative change has not been progressed by Government, there have been local discussions about adopting care experience as a protected characteristic and councils throughout England have undertaken work to consider adopting the principles of protected characteristics for care experienced young people.
- 4 To date approximately 104 Local Authorities across England have adopted care experience as a protected characteristic, which has raised awareness about the unique challenges they face, leading to more empathy and understanding from the public and professionals.
- 5 It is recognised that Durham County Council is already committed to supporting our young people who are care experienced, for example including guaranteed interviews in line with other groups who have legal recourse under equality legislation, and exemptions to council tax, however, it is acknowledged that there is more to be done.

#### Recommendations

6 Council is recommended to:

- (a) Consider the content of this report, and the background papers.
- (b) Agree that the Council supports the motion as set out in paragraphs 15 and 16 of the report and adopts the principle of recognising care experience as a protected characteristic across County Durham.

## Background

- 7 Josh McAllister was appointed by Government to undertake an independent review of Children's Social Care between July 2021 and May 2022. In his report, published in May 2022, he advocated for a legislative change to the Equality Act 2010 to include care experience as a protected characteristic.
- 8 Investing in Children are commissioned by Durham County Council to run the County Durham Children in Care Council (CiCC). More information on the CiCC can be found [HERE: Durham CiCC](#)
- 9 The CiCC became aware of the independent review, and in January 2023 brought an item to the Corporate Parenting Panel, whereby young people representing the CiCC provided an overview of the independent review findings, and explained that under the Equality Act 2010 some characteristics are protected, therefore it is against the law to discriminate against a person because of these characteristics which include age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.
- 10 The young people noted that there are increasing moves for care experience to be recognised as a protected characteristic and gave examples of local authorities throughout the country that had agreed to make care experience a protected characteristic.
- 11 On behalf of the CiCC, the young people asked the Corporate Parenting Panel to agree to Durham County Council considering adopting care experience as a protected characteristic.
- 12 Members of the Corporate Parenting Panel spoke in support of the proposal and highlighted the good work done by the young people to bring the report to Panel. Agreement was given for further conversations to take place with the CiCC, the Head of Children's Social Care and the Practice Lead for Children and Young People to discuss the processes which would be required to have the proposal formally considered by the Council to help shape Council policies and practices to further support care experienced young people moving forward.
- 13 In March 2023, the Corporate Parenting Panel were informed of the process to take the proposals through a motion to full Council. In advance of this the CiCC were asked to survey a larger group of young people to consider their views on what it would mean to them and what the implications would be of having care experience included as a protected characteristic

14 On 13 September 2024, the Corporate Parenting Panel considered a report which included the following motion:

15 *'This council notes:*

- (a) Care experienced people face significant barriers that impact them throughout their lives;
- (b) Despite the resilience of many care experienced people, society too often does not take their needs into account;
- (c) Care experienced people often face discrimination and stigma across housing, health, education, relationships, employment and in the criminal justice system;
- (d) Care experienced people may encounter inconsistent support in different geographical areas;
- (e) 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;
- (f) All corporate parents should commit to acting as mentors, hearing the voices of children and young people in our care and to consider their needs in any aspect of council work;
- (g) Councillors should be champions of the children in our care and challenge the negative attitudes and prejudice that exists in all aspects of society;
- (h) The Public Sector Equality Duty requires public bodies, such as councils, to eliminate unlawful discrimination, harassment, and victimisation of people with protected characteristics.'

16 *This council therefore resolves:*

- (a) That it recognises that care experienced people are a group who are likely to face discrimination;
- (b) That it recognises that Councils have a duty to put the needs of disadvantaged people at the heart of decision-making through co-production and collaboration;
- (c) That future decision, 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.

- (d) 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.
  - (e) That this Council will treat care experience as if it were a Protected Characteristic.
  - (f) To formally call upon all other bodies to treat care experience as a protected characteristic until such time as it may be introduced by legislation.
  - (g) For the council to continue proactively seeking out and listening to the voices of care experienced people when developing new policies based on their views.'
- 17 Corporate parenting panel resolved to present the motion to Council. It was initially envisaged that it would be presented to Council as a motion on notice but after consultation with the Chair of Corporate Parenting Panel and the Director of Legal and Democratic Services, it was agreed that it would be presented as report. This would enable Officers and young people (if possible) to introduce the report before Members debate the proposals.
- 18 Treating care experience as a protected characteristic would mean that it would be considered alongside all other protected characteristics when conducting equality impact screenings and assessments as part of decision-making processes. This will help address the inequalities that our care experienced young people referred to in their survey responses.
- 19 Should the motion be agreed by Full Council, this would, demonstrate significant commitment to addressing the inequality of experience by care experienced children and young people in County Durham. This would demonstrate a clear message to our young people but also to the wider partners and community in its recognition of equity for this group.

### **Next Steps**

- 20 A working group has been established with representatives from Corporate Affairs; Equalities and Consultation Officers Group; Communications and Marketing; Children and Young People's Services; Members Services; and Children and Young People's Overview and Scrutiny Committee.
- 21 The working group will consider the impact of the motion being accepted and will prepare briefings for the services and elected

members to ensure that across the council, everyone understands the impact this would have.

- 22 Consideration will be given to the changes we expect to see in response to the motion being agreed.

## **Conclusion**

- 23 The Corporate Parenting Panel are in favour of Durham County Council adopting care experience as a local adopted protected characteristic in line with the recommendations of the Independent Review of Children's Social Care.
- 24 Giving consideration to care experience from the outset will help us to make services more accessible and the consideration of equity and equality will have a positive impact on everyone. This in turn should reduce the need for young people having to identify as care experienced young people to access the services they need, should they not want to, as they will be inclusive for all from the outset.
- 25 The importance of understanding individual experiences and tailoring services to meet diverse needs will help the Local Authority to safeguard and enhance our children and young people's experiences, both now and in later life.

## **Background papers**

[Agenda for Corporate Parenting Panel on Friday 13 September 2024, 9.30 am - Durham County Council](#)

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## **Appendix 1: Implications**

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### **Legal Implications**

To recognise care experience as a protected characteristic within the Equality Act 2010 would require legislative change. However, the Council can adopt a policy position whereby care experience is considered locally as if it were a protected characteristic for the purposes of equality impact screening, assessments and decision making.

### **Finance**

No implications.

### **Consultation and Engagement**

Children in Care participated in this survey.

### **Equality and Diversity / Public Sector Equality Duty**

The service continually seeks to address inequalities and the proposed motion is designed to further support and address equality and diversity for children in our care. The Equalities team are part of the working group and will give adequate consideration to amending the equality impact assessment and PID templates to include care experience as a protected characteristic.

### **Climate Change**

No implications.

### **Human Rights**

The proposed motion is consistent with Article 12 of the United Nations Convention on the Rights of the Child.

### **Crime and Disorder**

No implications.

### **Staffing**

No implications.

### **Accommodation**

No implications.

### **Risk**

If the motion is adopted, communications will be issued to raise awareness about care experience being considered as a protected characteristic.

### **Procurement**

No implications.